Journal of the House

State of Indiana

113th General Assembly — Second Regular Session

Twenty-ninth Meeting Day — **Thursday Morning** — **March 4, 2004**

The House convened at 11:00 a.m. with the Speaker in the Chair.

The invocation was offered by Bishop Woodie White , Bishop of the Indiana Area of the United Methodist Church, Indianapolis, the guest of Representative Ralph M. Foley.

The Pledge of Allegiance to the Flag was led by Representative Terry A. Goodin.

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
Messer
Moses
Murphy
Neese **...**
Noe
Orentlicher
Oxley
Pelath
Pflum
Pierce
Pond
Porter
Reske
Richardson
Ripley
Robertson
Ruppel
Saunders
Scholer
V. Smith
Stevenson
Stilwell
Stutzman
Summers
Thomas
Thompson
Torr
Turner
Ulmer
Van Haaften
Welch
Whetstone
Wolkins
D. Young
Yount
Mr. Speaker

Roll Call 262: 98 present; 2 excused. The Speaker announced a quorum in attendance. [*NOTE*: **...** *indicates those who were excused*.]

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolutions 23 and 43 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 1019–1; filed March 4, 2004, at 9:04 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 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 22-11-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. As used in this chapter **and IC 22-11-14.5:**

"Auto burglar alarm" means a tube that contains pyrotechnic composition that produces a loud whistle or smoke when ignited. A small quantity of explosive, not exceeding fifty (50) milligrams, may also be used to produce a small report. A squib is used to ignite the device.

"Booby trap" means a small tube with string protruding from both ends, similar to a party popper in design. The ends of the string are pulled to ignite the friction sensitive composition, producing a small report.

"Chaser" means a device, containing fifty (50) milligrams or less of explosive composition, that consists of a small paper or cardboard tube that travels along the ground upon ignition. A whistling effect is often produced, and a small noise may be produced.

"Cigarette load" means a small wooden peg that has been coated with a small quantity of explosive composition. Upon ignition of a cigarette containing one of the pegs, a small report is produced.

"Common firework" means a small firework that is designed primarily to produce visible effects by combustion, and that is required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR 1507. The term also includes some small devices designed to produce an audible effect, such as whistling devices, ground devices containing fifty (50) milligrams or less of explosive composition, and aerial devices containing one hundred thirty (130) milligrams or less of explosive composition. Propelling or expelling charges consisting of a mixture of charcoal, sulfur, and potassium nitrate are not considered as designed to produce an audible effect. Common fireworks:

(1) include:

(A) ground and hand-held sparkling devices, which include dipped stick, certain wire sparklers, cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, and flitter sparklers;

(B) aerial devices, which include sky rockets, missile-type rockets, helicopter or aerial spinners, roman candles, mines, and shells;

(C) ground audible devices, which include firecrackers, salutes, and chasers; and

(D) firework devices containing combinations of two (2) or more of the effects described in the preceding three (3) clauses; and

(2) do not include the following novelties and trick noisemakers:

(A) Snakes or glow worms.

(B) Smoke devices.

(C) Wire sparklers which contain no magnesium and which contain less than one hundred (100) grams of composition per item.

(D) Trick noisemakers, which include party poppers, booby traps, snappers, trick matches, cigarette loads, and auto burglar alarms.

"Cone fountain" means a cardboard or heavy paper cone which contains up to fifty (50) grams of pyrotechnic composition, and which produces the same effect as a cylindrical fountain.

"Cylindrical fountain" means a cylindrical tube not exceeding three-quarters (3/4) inch in inside diameter and containing up to seventy-five (75) grams of pyrotechnic composition. Fountains produce a shower of color and sparks upon ignition, and sometimes a whistling effect. Cylindrical fountains may contain a spike to be inserted in the ground (spike fountain), a wooden or plastic base to be placed on the ground (base fountain), or a wooden handle or cardboard handle for items designed to be hand-held (handle fountain).

"Dipped stick" or "wire sparkler" means a common firework that consists of a stick or wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. Total pyrotechnic composition does not exceed one hundred (100) grams per item. Those devices containing chlorate or perchlorate salts do not exceed five (5) grams in total composition per item. Wire sparklers ~~which~~ **that** contain no magnesium and ~~which~~ **that** contain less than one hundred (100) grams of composition per item are not included in the category of common fireworks.

"Distributor" means a person who sells fireworks to wholesalers and retailers for resale.

"Explosive composition" means a chemical or mixture of chemicals that produces an audible effect by deflagration or detonation when ignited.

"Firecracker" or "salute" is a device that consists of a small paper-wrapped or cardboard tube containing not more than fifty (50) milligrams of pyrotechnic composition and that produces, upon ignition, noise, accompanied by a flash of light.

"Firework" means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of common fireworks and special fireworks. The following items are excluded from the definition of fireworks:

(1) Model rockets.

(2) Toy pistol caps.

(3) Emergency signal flares.

(4) Matches.

(5) Fixed ammunition for firearms.

(6) Ammunition components intended for use in firearms, muzzle loading cannons, or small arms.

(7) Shells, cartridges, and primers for use in firearms, muzzle loading cannons, or small arms.

(8) Indoor pyrotechnics special effects material.

"Flitter sparkler" means a narrow paper tube filled with pyrotechnic composition that produces color and sparks upon ignition. These devices do not use a fuse for ignition, but rather are ignited by igniting the paper at one (1) end of the tube.

"Ground spinner" means a small spinning device ~~which~~ **that** is similar to wheels in design and effect when placed on the ground and ignited, and ~~which~~ **that** produces a shower of sparks and color when spinning.

"Helicopter" or "aerial spinner" is a spinning device:

(1) that consists of a tube up to one-half (1/2) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition;

(2) to which some type of propeller or blade device is attached; and

(3) that lifts into the air upon ignition, producing a visible or audible effect at the height of flight.

"Illuminating torch" means a cylindrical tube that:

(1) contains up to one hundred (100) grams of pyrotechnic composition;

(2) produces, upon ignition, a colored fire; and

(3) is either a spike, base, or handle-type device.

"Importer" means:

(1) a person who imports fireworks from a foreign country; or

(2) a person who brings or causes fireworks to be brought within this state for subsequent sale.

"Indoor pyrotechnics special effects material" means a chemical material that is clearly labeled by the manufacturer as suitable for indoor use (as provided in National Fire Protection Association Standard 1126 ~~(1992 edition)).~~ **(2001 edition)).**

"Interstate wholesaler" means a person who is engaged in interstate commerce selling fireworks not approved for sale in Indiana.

"Manufacturer" means a person engaged in the manufacture of fireworks.

"Mine" or "shell" means a device that:

(1) consists of a heavy cardboard or paper tube up to two and one-half (2 1/2) inches in inside diameter, to which a wooden or plastic base is attached;

(2) contains up to forty (40) grams of pyrotechnic composition; and

(3) propels, upon ignition, stars (pellets of pressed pyrotechnic composition that burn with bright color), whistles, parachutes, or combinations thereof, with the tube remaining on the ground.

"Missile-type rocket" means a device that is similar to a sky rocket in size, composition, and effect, and that uses fins rather than a stick for guidance and stability.

"Party popper" means a small plastic or paper item containing not more than sixteen (16) milligrams of explosive composition that is friction sensitive. A string protruding from the device is pulled to ignite it, expelling paper streamers and producing a small report.

"Person" means an individual, an association, an organization, a limited liability company, or a corporation.

"Pyrotechnic composition" means a mixture of chemicals that produces a visible or audible effect by combustion rather than deflagration or detonation. Pyrotechnic compositions will not explode upon ignition unless severely confined.

"Retail sales stand" means a temporary business site or location where goods are to be sold.

"Retailer" means a person who purchases fireworks for resale to consumers.

"Roman candle" means a device that consists of a heavy paper or cardboard tube not exceeding three-eighths (3/8) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition. Upon ignition, up to ten (10) stars (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several-second intervals.

"Sky rocket" means a device that:

(1) consists of a tube that does not exceed one-half (1/2) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition;

(2) contains a wooden stick for guidance and stability; and

(3) rises into the air upon ignition, producing a burst of color or noise at the height of flight.

"Smoke device" means a tube or sphere containing pyrotechnic composition that produces white or colored smoke upon ignition as the primary effect.

"Snake" or "glow worm" means a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. These devices do not contain mercuric thiocyanate.

"Snapper" means a small, paper-wrapped item containing a minute quantity of explosive composition coated on small bits of sand. When dropped, the device explodes, producing a small report.

"Special fireworks" means fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation, including firecrackers containing more than one hundred thirty (130) milligrams of explosive composition, aerial shells containing more than forty (40) grams of pyrotechnic composition, and other exhibition display items that exceed the limits for classification as

common fireworks.

"Trick match" means a kitchen or book match that has been coated with a small quantity of explosive or pyrotechnic composition. Upon ignition of the match, a small report or a shower of sparks is produced.

"Trick noisemaker" means an item that produces a small report intended to surprise the user.

"Wheel" means a pyrotechnic device that:

(1) is attached to a post or tree by means of a nail or string;

(2) contains up to six (6) driver units (tubes not exceeding one-half (1/2) inch in inside diameter) containing up to sixty (60) grams of composition per driver unit; and

(3) revolves, upon ignition, producing a shower of color and sparks and sometimes a whistling effect.

"Wholesaler" means a person who purchases fireworks for resale to retailers.

SECTION 2. IC 22-11-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The fire prevention and building safety commission may:

(1) adopt rules **under IC 4-22-2** for the granting of permits for supervised public displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals; ~~The fire prevention and building safety commission created under IC 22-12-2 shall~~ **and**

(2) establish by rule the fee for the permit, ~~A fee collected for a permit~~ **which** shall be paid into the fire and building services fund created under IC 22-12-6-1.

(b) The application for ~~any~~ **a** permit **required under subsection (a)** must:

(1) name a competent operator who is to officiate at the display; ~~together with~~

(2) set forth a brief resume of the operator's experience;

(3) be made in writing; and

(4) be received with the applicable fee by the office of the state fire marshal at least five (5) business days before the display.

No operator who has a prior conviction for violating this chapter may operate any display for one (1) year after the conviction.

(c) Every display shall be handled by a qualified operator ~~to be~~ approved by the chief of the fire department of the municipality in which the display is to be held. ~~and~~ **A display** shall be so located, discharged, or fired as, in the opinion of:

(1) the chief of the fire department **of the city or town in which the display is to be held;** or

(2) the township fire chief or the fire chief of the municipality nearest the site proposed, in **the** case ~~the exhibit or~~ **of a** display ~~is sought~~ to be held outside of the corporate limits of any city or town;

after proper inspection, is not hazardous to property or person. ~~Applications for permits must be made in writing at least fifteen (15) days in advance of the date of display.~~

(d) A permit granted under this section is not transferable.

~~(b) A municipality may adopt an ordinance concerning the conducting and display of indoor pyrotechnics. However, an ordinance adopted under this subsection may not be more lenient than a rule adopted by a state agency.~~

~~(c) A municipality or an organization that obtains a permit for an indoor pyrotechnics display from a local governmental entity is not required to obtain a permit approved by the state fire marshal.~~

(e) A denial of a permit by a municipality shall be issued in writing before the date of the display.

~~(d)~~ **(f)** A person who possesses, transports, or delivers fireworks, except as authorized under this section, commits a Class A misdemeanor.

SECTION 3. IC 22-11-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 14.5. Indoor Pyrotechnics

Sec. 1. As used in this chapter, "indoor pyrotechnics" means controlled exothermic chemical reactions that are timed to create the effects of heat, gas, sound, dispersion of aerosols, emission of visible electromagnetic radiation, or a combination of these effects to provide the maximum effect from the least volume (as provided in National Fire Protection Association Standard 1126 (2001 edition)). The term does not include the following novelties and trick noisemakers:

(1) Snakes or glow worms.

(2) Smoke devices.

(3) Wire sparklers that do not contain magnesium and that contain less than one hundred (100) grams of composition per item.

(4) Trick noisemakers, which include party poppers, booby traps, snappers, trick matches, cigarette loads, and auto burglar alarms.

Sec. 2. As used in this chapter, "responding fire department" means the paid fire department or volunteer fire department that renders fire protection services to a political subdivision.

Sec. 3. The fire prevention and building safety commission shall adopt rules under IC 4-22-2 and IC 22-13-2.5 to implement a statewide code concerning displays of indoor pyrotechnics. The rules:

(1) must require that a certificate of insurance be issued that provides general liability coverage of at least five hundred thousand dollars ($500,000) for the injury or death of any number of persons in any one (1) occurrence and five hundred thousand dollars ($500,000) for property damage in any one (1) occurrence by an intended display of indoor pyrotechnics arising from any acts of the operator of the display or the operator's agents, employees, or subcontractors;

(2) must require the person intending to present the display, to give, at least twenty four (24) hours before the time of the display, written notice of the intended display to the chief of the responding fire department of the location proposed for the display of the indoor pyrotechnics and to include with the written notice a certification from the person intending to display the indoor pyrotechnics that the display will be made in accordance with:

(A) the rules adopted under this section; and

(B) any ordinance or resolution adopted under section 4 of this chapter;

(3) must include and adopt NFPA 1126, Standard for the Use of Pyrotechnics before a Proximate Audience, 2001 Edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 12269;

(4) must be amended to adopt any subsequent edition of NFPA Standard 1126, including addenda, within eighteen (18) months after the effective date of the subsequent edition; and

(5) may provide for amendments to NFPA Standard 1126 as a condition of the adoption under subdivisions (3) and (4).

Sec. 4. A city, town, or county may adopt an ordinance or a township may adopt a resolution that:

(1) establishes requirements for displays of indoor pyrotechnics more stringent or detailed than the requirements established under this chapter; or

(2) bans the display of indoor pyrotechnics.

Sec. 5. Except as provided in section 4 of this chapter, the rules adopted under section 3 of this chapter take precedence over:

(1) an ordinance adopted by a city, town, or county; or

(2) a resolution adopted by a township;

that covers the same subject matter as the commission's rules concerning indoor pyrotechnics.

Sec. 6. A person who violates a rule adopted under this chapter commits a Class C infraction.

Sec. 7. A person who knowingly allows an individual to commit a violation of a rule adopted under this chapter commits a Class C infraction if the violation is committed on property under the person's control.

Sec. 8. Each day that an infraction under this chapter occurs constitutes a separate infraction.

Sec. 9. A person who causes serious bodily injury to a person as a result of a reckless violation of a rule adopted under this chapter commits a Class A misdemeanor.

Sec. 10. A person who causes serious bodily injury to a person as a result of a knowing or an intentional violation of a rule

adopted under this chapter commits a Class D felony.

Sec. 11. A person who causes the death of a person as a result of a reckless violation of a rule adopted under this chapter commits a Class D felony.

Sec. 12. A person who causes the death of a person as a result of a knowing or an intentional violation of a rule adopted under this chapter commits a Class C felony.

SECTION 4. IC 22-12-1-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. (a) "Bull ride simulator" means a device designed to simulate:**

(1) a rodeo bull ride; or

(2) a similarly challenging ride upon another type of animal; by subjecting the rider to a wide range of abrupt motion produced by mechanical, electrical, or hydraulic means.

(b) The term does not include devices that:

(1) resemble animals; and

(2) are designed:

(A) as an entertainment device;

(B) to operate rhythmically within a restricted range of motion; and

(C) for use by children.

SECTION 5. IC 22-12-1-19.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19.1. (a) "Regulated amusement device" means a device designed to carry or convey one (1) or more persons in one (1) or more planes or degrees of motion for the purpose of amusement, recreation, or entertainment.

(b) The term includes the following:

(1) An amusement ride.

(2) A ski lift.

(3) A passenger tramway.

(4) An aerial tramway or lift.

(5) A surface lift or tow.

(6) A bull ride simulator.

(c) The term does not include a passenger operated device or an inflatable amusement chamber.

SECTION 6. IC 35-47.5-4-4.5, AS ADDED BY HEA 1072-2004, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4.5. (a) This section does not apply to a person who is regulated under IC 14-34.

(b) The commission shall adopt rules under IC 4-22-2 to:

(1) govern the use of a regulated explosive; and

(2) establish requirements for the issuance of a license for the use of a regulated explosive.

(c) The commission shall include the following requirements in the rules adopted under subsection (b):

(1) Relicensure every three (3) years after the initial issuance of a license.

(2) Continuing education as a condition of relicensure.

(3) An application for licensure or relicensure must be submitted to the office on forms approved by the commission.

(4) A fee for licensure and relicensure.

(5) Reciprocal recognition of a license for the use of a regulated explosive issued by another state if the licensure requirements of the other state are substantially similar to the licensure requirements established by the commission.

(d) A person may not use a regulated explosive unless the person has a license issued under this section for the use of a regulated explosive.

(e) The office shall carry out the licensing and relicensing program under the rules adopted by the commission.

(f) As used in this section, "regulated explosive" does not include either of the following:

(1) ~~Consumer~~ Fireworks (as defined in ~~27 CFR 55.11).~~ **27 CFR 555.11).**

(2) Commercially manufactured black powder in quantities not to exceed fifty (50) pounds, if the black powder is intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or antique devices.

SECTION 7. [EFFECTIVE UPON PASSAGE] **(a) For purposes of this SECTION, "bull ride simulator" has the meaning set forth in IC 22-12-1-3.5, as added by this act.**

(b) Notwithstanding IC 22-12-1-19.1, as amended by this act, and IC 22-15-7, a bull ride simulator may be operated without a valid regulated amusement device permit through July 1, 2005, under subsection (c).

(c) To operate a bull ride simulator as described in subsection (b), the owner of the bull ride simulator must:

(1) register the bull ride simulator with the office of the state building commissioner not later than July 1, 2004, by providing the information required by the office for such a registration on a form approved by the office; and

(2) demonstrate compliance with all of the insurance requirements for regulated amusement devices under IC 22-15-7-2.5 to the office of the state building commissioner not later than July 1, 2004.

(d) If the regulated amusement device safety board established under IC 22-12-4.5-2 determines that additional safety standards specific to bull ride simulators are appropriate or needed, subject to the approval of the fire prevention and building safety commission, the regulated amusement device safety board shall adopt rules under IC 4-22-2 to establish equipment laws containing these additional safety standards for bull ride simulators not later than July 1, 2005.

(e) This SECTION expires July 1, 2005.

SECTION 8. [EFFECTIVE UPON PASSAGE] **(a) It is the intent of the general assembly that a standard known as NFPA 1126, Standard for the Use of Pyrotechnics before a Proximate Audience, 2001 Edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 12269, be incorporated into the Indiana Administrative Code, as required by IC 22-11-14.5-3, as added by this act.**

(b) 675 IAC 22-2.2-25(b)(1), with respect to NFPA 1126, is void. The publisher of the Indiana Administrative Code and the Indiana Register shall remove the reference to NFPA 1126 in 675 IAC 22-2.2-25(b)(1) from the Indiana Administrative Code.

(c) The fire prevention and building safety commission shall carry out the duties imposed upon it under IC 22-11-14.5, as added by this act, under interim guidelines approved by the executive director of the fire and building services department.

(d) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 22-11-14.5-3, as added by this act.

(2) December 31, 2005.

SECTION 9. **An emergency is declared for this act.**

Renumber all SECTIONS consecutively

(Reference is to EHB 1019 as printed February 18, 2004.)

CHENEY	LANDSKE
AYRES	DEMBOWSKI
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT

EHB 1320–1; filed March 4, 2004, at 10:00 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 1320 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 6-1.1-18-12, AS ADDED BY P.L.1-2004, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 12, 2003 (RETROACTIVE)]: Sec. 12. (a) For purposes of this section, "maximum rate" refers to the maximum:

(1) property tax rate or rates; or

(2) special benefits tax rate or rates;

referred to in the statutes listed in subsection (d).

(b) The maximum rate for taxes first due and payable after 2003 is the maximum rate that would have been determined under subsection (e) for taxes first due and payable in 2003 if subsection (e) had applied for taxes first due and payable in 2003.

(c) The maximum rate must be adjusted:
(1) each time an annual adjustment of the assessed value of real property takes effect under IC 6-1.1-4-4.5; and
(2) each time a general reassessment of real property takes effect under IC 6-1.1-4-4.
(d) The statutes to which subsection (a) refers are:
(1) IC 8-10-5-17;
(2) IC 8-22-3-11;
(3) IC 8-22-3-25;
(4) IC 12-29-1-1;
(5) IC 12-29-1-2;
(6) IC 12-29-1-3;
~~(7) IC 12-29-2-13;~~
~~(8)~~ **(7)** IC 12-29-3-6;
~~(9)~~ **(8)** IC 13-21-3-12;
~~(10)~~ **(9)** IC 13-21-3-15;
~~(11)~~ **(10)** IC 14-27-6-30;
~~(12)~~ **(11)** IC 14-33-7-3;
~~(13)~~ **(12)** IC 14-33-21-5;
~~(14)~~ **(13)** IC 15-1-6-2;
~~(15)~~ **(14)** IC 15-1-8-1;
~~(16)~~ **(15)** IC 15-1-8-2;
~~(17)~~ **(16)** IC 16-20-2-18;
~~(18)~~ **(17)** IC 16-20-4-27;
~~(19)~~ **(18)** IC 16-20-7-2;
~~(20)~~ **(19)** IC 16-23-1-29;
~~(21)~~ **(20)** IC 16-23-3-6;
~~(22)~~ **(21)** IC 16-23-4-2;
~~(23)~~ **(22)** IC 16-23-5-6;
~~(24)~~ **(23)** IC 16-23-7-2;
~~(25)~~ **(24)** IC 16-23-8-2;
~~(26)~~ **(25)** IC 16-23-9-2;
~~(27)~~ **(26)** IC 16-41-15-5;
~~(28)~~ **(27)** IC 16-41-33-4;
~~(29)~~ **(28)** IC 20-5-17.5-2;
~~(30)~~ **(29)** IC 20-5-17.5-3;
~~(31)~~ **(30)** IC 20-5-37-4;
~~(32)~~ **(31)** IC 20-14-7-5.1;
~~(33)~~ **(32)** IC 20-14-7-6;
~~(34)~~ **(33)** IC 20-14-13-12;
~~(35)~~ **(34)** IC 21-1-11-3;
~~(36)~~ **(35)** IC 21-2-17-2;
~~(37)~~ **(36)** IC 23-13-17-1;
~~(38)~~ **(37)** IC 23-14-66-2;
~~(39)~~ **(38)** IC 23-14-67-3;
~~(40)~~ **(39)** IC 36-7-13-4;
~~(41)~~ **(40)** IC 36-7-14-28;
~~(42)~~ **(41)** IC 36-7-15.1-16;
~~(43)~~ **(42)** IC 36-8-19-8.5;
~~(44)~~ **(43)** IC 36-9-6.1-2;
~~(45)~~ **(44)** IC 36-9-17.5-4;
~~(46)~~ **(45)** IC 36-9-27-73;
~~(47)~~ **(46)** IC 36-9-29-31;
~~(48)~~ **(47)** IC 36-9-29.1-15;
~~(49)~~ **(48)** IC 36-10-6-2;
~~(50)~~ **(49)** IC 36-10-7-7;
~~(51)~~ **(50)** IC 36-10-7-8;
~~(52)~~ **(51)** IC 36-10-7.5-19; and
~~(53)~~ **(52)** any statute enacted after December 31, 2003, that:
(A) establishes a maximum rate for any part of the:
(i) property taxes; or
(ii) special benefits taxes;
imposed by a political subdivision; and
(B) does not exempt the maximum rate from the adjustment under this section.
(e) The new maximum rate under a statute listed in subsection (d) is the tax rate determined under STEP SEVEN of the following STEPS:
STEP ONE: Determine the maximum rate for the political subdivision levying a property tax or special benefits tax under the statute for the year preceding the year in which the annual adjustment or general reassessment takes effect.
STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment takes effect.
STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first take effect.
STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the preceding year.
STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).
STEP SIX: Determine the greater of the following:
(A) Zero (0).
(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.
STEP SEVEN: Determine the quotient of the STEP ONE tax rate divided by the sum of one (1) plus the STEP SIX percentage increase.
(f) The department of local government finance shall compute the maximum rate allowed under subsection (e) and provide the rate to each political subdivision with authority to levy a tax under a statute listed in subsection (d).
SECTION 2. IC 6-1.1-18.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 10. (a) The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a civil taxing unit to be used to fund:
(1) community mental health centers under: ~~IC 12-29-2-1~~
(A) IC 12-29-2-1.2, for only those civil taxing units that authorized financial assistance under IC 12-29-1 before 2002 for a community mental health center as long as the tax levy under this section does not exceed the levy authorized in 2002;
(B) IC 12-29-2-2 through ~~IC 12-29-2-6~~ **IC 12-29-2-5; and**
(C) IC 12-29-2-13; or
(2) community mental retardation and other developmental disabilities centers under IC 12-29-1-1;
to the extent that those property taxes are attributable to any increase in the assessed value of the civil taxing unit's taxable property caused by a general reassessment of real property that took effect after February 28, 1979.
(b) For purposes of computing the ad valorem property tax levy limits imposed on a civil taxing unit by section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular calendar year does not include that part of the levy described in subsection (a).
SECTION 3. IC 12-15-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) If the office of the secretary believes that an overpayment to a provider has occurred, the office of the secretary may do the following:
(1) Notify the provider in writing that the office of the secretary believes that an overpayment has occurred.
(2) Request in the notice that the provider repay the amount of the alleged overpayment, including interest from the date of overpayment.
(b) ~~Except as provided in subsection (c),~~ A provider who receives a notice and request for repayment under subsection (a) may elect to do one (1) of the following:
(1) Repay the amount of the overpayment not later than sixty (60) days after receiving notice from the office of the secretary, including interest from the date of overpayment.
(2) Request a hearing and repay the amount of the alleged overpayment not later than sixty (60) days after receiving notice from the office of the secretary.
(3) Request a hearing not later than sixty (60) days after receiving notice from the office of the secretary and not repay

the alleged overpayment, except as provided in subsection (d).

(c) If:

(1) a provider elects to proceed under subsection (b)(2); and

(2) the office of the secretary determines after the hearing and any subsequent appeal that the provider does not owe the money that the office of the secretary believed the provider owed;

the office of the secretary shall return the amount of the alleged overpayment and interest paid and pay the provider interest on the money from the date of the provider's repayment.

(d) If:

(1) a provider elects to proceed under subsection (b)(3); and

(2) the office of the secretary determines after the hearing and any subsequent appeal that the provider owes the money;

the provider shall pay the amount of the overpayment, including interest from the date of the overpayment.

~~(e) A hospital licensed under IC 16-21 that receives a notice and request for repayment under subsection (a) has one hundred eighty (180) days to elect one (1) of the actions under subsection (b)(1), (b)(2), or (b)(3).~~

~~(f)~~ **(e)** Interest that is due under this section shall be paid at a rate that is determined by the commissioner of the department of state revenue under IC 6-8.1-10-1(c) as follows:

(1) Interest due from a provider to the state shall be paid at the rate set by the commissioner for interest payments from the department of state revenue to a taxpayer.

(2) Interest due from the state to a provider shall be paid at the rate set by the commissioner for interest payments from the department of state revenue to a taxpayer.

~~(g)~~ **(f)** Proceedings under this section are subject to IC 4-21.5.

SECTION 4. IC 12-15-15-1.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: **Sec. 1.6. (a) This section applies only if the office determines, based on information received from the federal Centers for Medicare and Medicaid Services, that payments made under section 1.5(b) STEP FIVE (A), (B), or (C) of this chapter will not be approved for federal financial participation.**

(b) If the office determines that payments made under section 1.5(b) STEP FIVE (A) of this chapter will not be approved for federal financial participation, the office may make alternative payments to payments under section 1.5(b) STEP FIVE (A) of this chapter if:

(1) the payments for a state fiscal year are made only to a hospital that would have been eligible for a payment for that state fiscal year under section 1.5(b) STEP FIVE (A) of this chapter; and

(2) the payments for a state fiscal year to each hospital are an amount that is as equal as possible to the amount each hospital would have received under section 1.5(b) STEP FIVE (A) of this chapter for that state fiscal year.

(c) If the office determines that payments made under section 1.5(b) STEP FIVE (B) of this chapter will not be approved for federal financial participation, the office may make alternative payments to payments under section 1.5(b) STEP FIVE (B) of this chapter if:

(1) the payments for a state fiscal year are made only to a hospital that would have been eligible for a payment for that state fiscal year under section 1.5(b) STEP FIVE (B) of this chapter; and

(2) the payments for a state fiscal year to each hospital are an amount that is as equal as possible to the amount each hospital would have received under section 1.5(b) STEP FIVE (B) of this chapter for that state fiscal year.

(d) If the office determines that payments made under section 1.5(b) STEP FIVE (C) of this chapter will not be approved for federal financial participation, the office may make alternative payments to payments under section 1.5(b) STEP FIVE (C) of this chapter if:

(1) the payments for a state fiscal year are made only to a hospital that would have been eligible for a payment for that state fiscal year under section 1.5(b) STEP FIVE (C) of this chapter; and

(2) the payments for a state fiscal year to each hospital are an amount that is as equal as possible to the amount each hospital would have received under section 1.5(b) STEP FIVE (C) of this chapter for that state fiscal year.

(e) If the office determines, based on information received from the federal Centers for Medicare and Medicaid Services, that payments made under subsection (b), (c), or (d) will not be approved for federal financial participation, the office shall use the funds that would have served as the nonfederal share of these payments for a state fiscal year to serve as the nonfederal share of a payment program for hospitals to be established by the office. The payment program must distribute payments to hospitals for a state fiscal year based upon a methodology determined by the office to be equitable under the circumstances.

SECTION 5. IC 12-15-15-9, AS AMENDED BY P.L.255-2003, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 9. (a) For purposes of this section and IC 12-16-7.5-4.5, a payable claim is attributed to a county if the payable claim is submitted to the division by a hospital licensed under IC 16-21-2 for payment under IC 12-16-7.5 for care provided by the hospital to an individual who qualifies for the hospital care for the indigent program under IC 12-16-3.5-1 or IC 12-16-3.5-2 and:

(1) who is a resident of the county;

(2) who is not a resident of the county and for whom the onset of the medical condition that necessitated the care occurred in the county; or

(3) whose residence cannot be determined by the division and for whom the onset of the medical condition that necessitated the care occurred in the county.

(b) For each state fiscal year ending after June 30, 2003, a hospital licensed under IC 16-21-2 that submits to the division during the state fiscal year a payable claim under IC 12-16-7.5 is entitled to a payment under this section.

(c) ~~For a state fiscal year,~~ **Except as provided in section 9.8 of this chapter and** subject to section 9.6 of this chapter, **for a state fiscal year,** the office shall pay to a hospital referred to in subsection (b) an amount equal to the amount, based on information obtained from the division and the calculations and allocations made under IC 12-16-7.5-4.5, that the office determines for the hospital under STEP SIX of the following STEPS:

STEP ONE: Identify:

(A) each hospital that submitted to the division one (1) or more payable claims under IC 12-16-7.5 during the state fiscal year; and

(B) the county to which each payable claim is attributed.

STEP TWO: For each county identified in STEP ONE, identify:

(A) each hospital that submitted to the division one (1) or more payable claims under IC 12-16-7.5 attributed to the county during the state fiscal year; and

(B) the total amount of all hospital payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year.

STEP THREE: For each county identified in STEP ONE, identify the amount of county funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b).

STEP FOUR: For each hospital identified in STEP ONE, with respect to each county identified in STEP ONE, calculate the hospital's percentage share of the county's funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b). Each hospital's percentage share is based on the total amount of the hospital's payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year, calculated as a percentage of the total amount of all hospital payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year.

STEP FIVE: Subject to subsection (j), for each hospital identified in STEP ONE, with respect to each county identified in STEP ONE, multiply the hospital's percentage share calculated under STEP FOUR by the amount of the county's funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b).

STEP SIX: Determine the sum of all amounts calculated under STEP FIVE for each hospital identified in STEP ONE with respect to each county identified in STEP ONE.

(d) A hospital's payment under subsection (c) is in the form of a Medicaid add-on payment. The amount of a hospital's add-on payment is subject to the availability of funding for the non-federal share of the payment under subsection (e). The office shall make the payments under subsection (c) before December 15 that next succeeds the end of the state fiscal year.

(e) The non-federal share of a payment to a hospital under subsection (c) is funded from the funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) of each county to which a payable claim under IC 12-16-7.5 submitted to the division during the state fiscal year by the hospital is attributed.

(f) The amount of a county's transferred funds available to be used to fund the non-federal share of a payment to a hospital under subsection (c) is an amount that bears the same proportion to the total amount of funds of the county transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) that the total amount of the hospital's payable claims under IC 12-16-7.5 attributed to the county submitted to the division during the state fiscal year bears to the total amount of all hospital payable claims under IC 12-16-7.5 attributed to the county submitted to the division during the state fiscal year.

(g) Any county's funds identified in subsection (f) that remain after the non-federal share of a hospital's payment has been funded are available to serve as the non-federal share of a payment to a hospital under section 9.5 of this chapter.

(h) For purposes of this section, "payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b)(1).

(i) For purposes of this section:

(1) the amount of a payable claim is an amount equal to the amount the hospital would have received under the state's fee-for-service Medicaid reimbursement principles for the hospital care for which the payable claim is submitted under IC 12-16-7.5 if the individual receiving the hospital care had been a Medicaid enrollee; and

(2) a payable hospital claim under IC 12-16-7.5 includes a payable claim under IC 12-16-7.5 for the hospital's care submitted by an individual or entity other than the hospital, to the extent permitted under the hospital care for the indigent program.

(j) The amount calculated under STEP FIVE of subsection (c) for a hospital with respect to a county may not exceed the total amount of the hospital's payable claims attributed to the county during the state fiscal year.

SECTION 6. IC 12-15-15-9.5, AS ADDED BY P.L.255-2003, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 9.5. (a) For purposes of this section and IC 12-16-7.5-4.5, a payable claim is attributed to a county if the payable claim is submitted to the division by a hospital licensed under IC 16-21-2 for payment under IC 12-16-7.5 for care provided by the hospital to an individual who qualifies for the hospital care for the indigent program under IC 12-16-3.5-1 or IC 12-16-3.5-2 and;

(1) who is a resident of the county;

(2) who is not a resident of the county and for whom the onset of the medical condition that necessitated the care occurred in the county; or

(3) whose residence cannot be determined by the division and for whom the onset of the medical condition that necessitated the care occurred in the county.

(b) For each state fiscal year ending after June 30, 2003, a hospital licensed under IC 16-21-2:

(1) that submits to the division during the state fiscal year a payable claim under IC 12-16-7.5; and

(2) whose payment under section 9(c) of this chapter was less than the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year;

is entitled to a payment under this section.

(c) ~~For a state fiscal year,~~ **Except as provided in section 9.8 of this chapter and** subject to section 9.6 of this chapter, **for a state fiscal year,** the office shall pay to a hospital referred to in subsection (b) an amount equal to the amount, based on information obtained from the division and the calculations and allocations made under IC 12-16-7.5-4.5, that the office determines for the hospital under STEP EIGHT of the following STEPS:

STEP ONE: Identify each county whose transfer of funds to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) for the state fiscal year was less than the total amount of all hospital payable claims attributed to the county and submitted to the division during the state fiscal year.

STEP TWO: For each county identified in STEP ONE, calculate the difference between the amount of funds of the county transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) and the total amount of all hospital payable claims attributed to the county and submitted to the division during the state fiscal year.

STEP THREE: Calculate the sum of the amounts calculated for the counties under STEP TWO.

STEP FOUR: Identify each hospital whose payment under section 9(c) of this chapter was less than the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year.

STEP FIVE: Calculate for each hospital identified in STEP FOUR the difference between the hospital's payment under section 9(c) of this chapter and the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year.

STEP SIX: Calculate the sum of the amounts calculated for each of the hospitals under STEP FIVE.

STEP SEVEN: For each hospital identified in STEP FOUR, calculate the hospital's percentage share of the amount calculated under STEP SIX. Each hospital's percentage share is based on the amount calculated for the hospital under STEP FIVE calculated as a percentage of the sum calculated under STEP SIX.

STEP EIGHT: For each hospital identified in STEP FOUR, multiply the hospital's percentage share calculated under STEP SEVEN by the sum calculated under STEP THREE. The amount calculated under this STEP for a hospital may not exceed the amount by which the hospital's total payable claims under IC 12-16-7.5 submitted during the state fiscal year exceeded the amount of the hospital's payment under section 9(c) of this chapter.

(d) A hospital's payment under subsection (c) is in the form of a Medicaid add-on payment. The amount of the hospital's add-on payment is subject to the availability of funding for the non-federal share of the payment under subsection (e). The office shall make the payments under subsection (c) before December 15 that next succeeds the end of the state fiscal year.

(e) The non-federal share of a payment to a hospital under subsection (c) is derived from funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) and not expended under section 9 of this chapter. To the extent possible, the funds shall be derived on a proportional basis from the funds transferred by each county identified in subsection (c), STEP ONE:

(1) to which at least one (1) payable claim submitted by the hospital to the division during the state fiscal year is attributed; and

(2) whose funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) were not completely expended under section 9 of this chapter.

The amount available to be derived from the remaining funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) to serve as the non-federal share of the payment to a hospital under subsection (c) is an amount that bears the same proportion to the total amount of funds transferred by all the counties identified in subsection (c), STEP ONE, that the amount calculated for the hospital under subsection (c), STEP FIVE, bears to the amount calculated under subsection (c), STEP SIX.

(f) Except as provided in subsection (g), the office may not make a payment under this section until the payments due under section 9 of this chapter for the state fiscal year have been made.

(g) If a hospital appeals a decision by the office regarding the hospital's payment under section 9 of this chapter, the office may make payments under this section before all payments due under section 9 of this chapter are made if:

(1) a delay in one (1) or more payments under section 9 of this chapter resulted from the appeal; and

(2) the office determines that making payments under this section while the appeal is pending will not unreasonably affect the interests of hospitals eligible for a payment under this section.

(h) Any funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) remaining after payments are made under this section shall be used as provided in IC 12-15-20-2(8)(D).

(i) For purposes of this section:

(1) "payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b);

(2) the amount of a payable claim is an amount equal to the amount the hospital would have received under the state's fee-for-service Medicaid reimbursement principles for the hospital care for which the payable claim is submitted under IC 12-16-7.5 if the individual receiving the hospital care had been a Medicaid enrollee; and

(3) a payable hospital claim under IC 12-16-7.5 includes a payable claim under IC 12-16-7.5 for the hospital's care submitted by an individual or entity other than the hospital, to the extent permitted under the hospital care for the indigent program.

SECTION 7. IC 12-15-15-9.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: **Sec. 9.8. (a) This section applies only if the office determines, based on information received from the United States Centers for Medicare and Medicaid Services, that a state Medicaid plan amendment implementing the payment methodology in:**

(1) section 9(c) of this chapter; or

(2) section 9.5(c) of this chapter;

will not be approved by the United States Centers for Medicare and Medicaid Services.

(b) The office may amend the state Medicaid plan to implement an alternative payment methodology to the payment methodology under section 9 of this chapter. The alternative payment methodology must provide each hospital that would have received a payment under section 9(c) of this chapter during a state fiscal year with an amount for the state fiscal year that is as equal as possible to the amount each hospital would have received under the payment methodology under section 9(c) of this chapter. A payment methodology implemented under this subsection is in place of the payment methodology under section 9(c) of this chapter.

(c) The office may amend the state Medicaid plan to implement an alternative payment methodology to the payment methodology under section 9.5 of this chapter. The alternative payment methodology must provide each hospital that would have received a payment under section 9.5(c) of this chapter during a state fiscal year with an amount for the state fiscal year that is as equal as possible to the amount each hospital would have received under the payment methodology under section 9.5(c) of this chapter. A payment methodology implemented under this subsection is in place of the payment methodology under section 9.5(c) of this chapter.

SECTION 8. IC 12-15-16-1, AS AMENDED BY P.L.113-2000, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 1. (a) A provider that is an acute care hospital licensed under IC 16-21, a state mental health institution under IC 12-24-1-3, or a private psychiatric institution licensed under IC 12-25 is a disproportionate share provider if the provider meets either of the following conditions:

(1) The provider's Medicaid inpatient utilization rate is at least one (1) standard deviation above the mean Medicaid inpatient utilization rate for providers receiving Medicaid payments in Indiana. However, the Medicaid inpatient utilization rate of providers whose low income utilization rate exceeds twenty-five percent (25%) must be excluded in calculating the statewide mean Medicaid inpatient utilization rate.

(2) The provider's low income utilization rate exceeds twenty-five percent (25%).

(b) An acute care hospital licensed under 16-21 is a municipal disproportionate share provider if the hospital:

(1) has a Medicaid utilization rate greater than one percent (1%); and

(2) is established and operated under IC 16-22-2 or IC 16-23.

(c) A community mental health center that:

(1) is identified in IC 12-29-2-1;

(2) receives funding under:

(A) IC 12-29-1-7(b) **before January 1, 2004; or**

(B) IC 12-29-2-20(c) after December 31, 2003;

or from other county sources; and

(3) provides inpatient services to Medicaid patients;

is a community mental health center disproportionate share provider if the community mental health center's Medicaid inpatient utilization rate is greater than one percent (1%).

(d) A disproportionate share provider under IC 12-15-17 must have at least two (2) obstetricians who have staff privileges and who have agreed to provide obstetric services under the Medicaid program. For a hospital located in a rural area (as defined in Section 1886 of the Social Security Act), an obstetrician includes a physician with staff privileges at the hospital who has agreed to perform nonemergency obstetric procedures. However, this obstetric service requirement does not apply to a provider whose inpatients are predominantly individuals less than eighteen (18) years of age or that did not offer nonemergency obstetric services as of December 21, 1987.

(e) The determination of a provider's status as a disproportionate share provider under this section shall be based on utilization and revenue data from the most recent year for which an audited cost report from the provider is on file with the office.

SECTION 9. IC 12-15-18-5.1, AS AMENDED BY P.L.66-2002, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 5.1. (a) For state fiscal years ending on or after June 30, 1998, the trustees and each municipal health and hospital corporation established under IC 16-22-8-6 are authorized to make intergovernmental transfers to the Medicaid indigent care trust fund in amounts to be determined jointly by the office and the trustees, and the office and each municipal health and hospital corporation.

(b) The treasurer of state shall annually transfer from appropriations made for the division of mental health and addiction sufficient money to provide the state's share of payments under IC 12-15-16-6(c)(2).

(c) The office shall coordinate the transfers from the trustees and each municipal health and hospital corporation established under IC 16-22-8-6 so that the aggregate intergovernmental transfers, when combined with federal matching funds:

(1) produce payments to each hospital licensed under IC 16-21 that qualifies as a disproportionate share provider under IC 12-15-16-1(a); and

(2) both individually and in the aggregate do not exceed limits prescribed by the federal Centers for Medicare and Medicaid Services.

The trustees and a municipal health and hospital corporation are not required to make intergovernmental transfers under this section. The trustees and a municipal health and hospital corporation may make additional transfers to the Medicaid indigent care trust fund to the extent necessary to make additional payments from the Medicaid indigent care trust fund apply to a prior federal fiscal year as provided in IC 12-15-19-1(b).

(d) A municipal disproportionate share provider (as defined in IC 12-15-16-1) shall transfer to the Medicaid indigent care trust fund an amount determined jointly by the office and the municipal disproportionate share provider. A municipal disproportionate share provider is not required to make intergovernmental transfers under this section. A municipal disproportionate share provider may make additional transfers to the Medicaid indigent care trust fund to the extent necessary to make additional payments from the Medicaid indigent care trust fund apply to a prior federal fiscal year as provided in IC 12-15-19-1(b).

(e) A county making a payment under:

(1) IC 12-29-1-7(b) **before January 1, 2004; or**

(2) IC 12-29-2-20(c) after December 31, 2003;

or from other county sources to a community mental health center qualifying as a community mental health center disproportionate share provider shall certify that the payment represents expenditures that are eligible for federal financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist a county in making this certification.

SECTION 10. IC 12-29-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 1. (a) The county executive of a county may authorize the furnishing of financial assistance to ~~the following:~~

~~(1) A community mental health center that is located or will be located in the county.~~

~~(2)~~ a community mental retardation and other developmental disabilities center that is located or will be located in the county.

(b) Assistance authorized under this section shall be used for the following purposes:

(1) Constructing a center.

(2) Operating a center.

(c) Upon request of the county executive, the county fiscal body may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in subsection (b). The appropriation may not exceed the amount that could be collected from an annual tax levy of not more than three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) of taxable property within the county.

SECTION 11. IC 12-29-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 2. (a) If ~~a community mental health center or~~ a community mental retardation and other developmental disabilities center is organized to provide services to at least two (2) counties, the county executive of each county may authorize the furnishing of financial assistance for the purposes described in section 1(b) of this chapter.

(b) Upon the request of the county executive of the county, the county fiscal body of each county may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in section 1(b) of this chapter. The appropriation of each county may not exceed the amount that could be collected from an annual tax levy of three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) of taxable property within the county.

SECTION 12. IC 12-29-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 3. (a) The county executive of each county whose residents may receive services from ~~a community mental health center or~~ a community mental retardation and other developmental disabilities center may authorize the furnishing of a share of financial assistance for the purposes described in section 1(b) of this chapter if the following conditions are met:

(1) The facilities for the center are located in a state adjacent to Indiana.

(2) The center is organized to provide services to Indiana residents.

(b) Upon the request of the county executive of a county, the county fiscal body of the county may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in section 1(b) of this chapter. The appropriations of the county may not exceed the amount that could be collected from an annual tax levy of three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) of taxable property within the county.

SECTION 13. IC 12-29-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 4. (a) Bonds of a county may be issued for the construction and equipment or the improvement of a building to house ~~the following:~~

~~(1) A community mental health center.~~

~~(2)~~ a community mental retardation and other developmental disabilities center.

(b) If services are provided to at least two (2) counties:

(1) bonds of the counties involved may be issued to pay the proportionate cost of the project in the proportion determined and agreed upon by the fiscal bodies of the counties involved; or

(2) bonds of one (1) county may be issued and the remaining counties may annually appropriate to the county issuing the bonds amounts to be applied to the payment of the bonds and interest on the bonds in the proportion agreed upon by the county fiscal bodies of the counties involved.

SECTION 14. IC 12-29-1-7, AS AMENDED BY P.L.215-2001, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 7. (a) On the first Monday in October, the county auditor shall certify to:

~~(1) the division of mental health and addiction, for a community mental health center;~~

~~(2)~~ **(1)** the division of disability, aging, and rehabilitative services, for a community mental retardation and other developmental disabilities center; and

~~(3)~~ **(2)** the president of the board of directors of each center;

the amount of money that will be provided to the center under this chapter.

(b) The county payment to the center shall be paid by the county treasurer to the treasurer of each center's board of directors in the following manner:

(1) One-half (1/2) of the county payment to the center shall be made on the second Monday in July.

(2) One-half (1/2) of the county payment to the center shall be made on the second Monday in December.

~~A county making a payment under this subsection or from other county sources to a community mental health center that qualifies as a community mental health center disproportionate share provider under IC 12-15-16-1 shall certify that the payment represents expenditures eligible for financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist a county in making this certification.~~

(c) Payments by the county fiscal body

~~(1) must be in the amounts:~~

~~(A) determined by IC 12-29-2-1 through IC 12-29-2-6; and~~

~~(B) authorized by section 1 of this chapter; and~~

~~(2)~~ are in place of grants from agencies supported within the county solely by county tax money.

SECTION 15. IC 12-29-2-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 1.2. (a) The county executive of a county may authorize the furnishing of financial assistance for the purposes described in subsection (b) to a community mental health center that is located or will be located:**

(1) in the county;

(2) anywhere in Indiana, if the community mental health center is organized to provide services to at least two (2) counties, including the county executive's county; or

(3) in an adjacent state, if the center is organized to provide services to Indiana residents, including residents in the county executive's county.

If a community mental health center is organized to serve more than one (1) county, upon request of the county executive, each county fiscal body may appropriate money annually from the county's general fund to provide financial assistance for the community mental health center.

(b) Assistance authorized under this section shall be used for the following purposes:

(1) Constructing a community mental health center.

(2) Operating a community mental health center.

(c) The appropriation from a county authorized under subsection (a) may not exceed the following:

(1) For 2004, the product of the amount determined under section 2(b)(1) of this chapter multiplied by one and five hundred four thousandths (1.504).

(2) For 2005 and each year thereafter, the product of the amount determined under section 2(b)(2) of this chapter for that year multiplied by one and five hundred four thousandths (1.504).

SECTION 16. IC 12-29-2-2, AS AMENDED BY P.L.1-2004, SECTION 54, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 2. (a) ~~Subject to subsections (b), (c), and (d),~~ A county shall fund the operation of community mental health centers in ~~an~~ **the** amount ~~not less than the amount that would be raised by an annual tax rate of one and thirty-three hundredths cents ($0.0133) on each one hundred dollars ($100) of taxable property within the county,~~ **determined under subsection (b),** unless a lower tax ~~rate~~ **levy amount** will be adequate to fulfill the county's financial obligations under this chapter in any of the following situations:

(1) If the total population of the county is served by one (1) center.

(2) If the total population of the county is served by more than one (1) center.

(3) If the partial population of the county is served by one (1) center.

(4) If the partial population of the county is served by more than one (1) center.

~~(b) This subsection applies only to a property tax that is imposed in a county containing a consolidated city. The tax rate permitted under subsection (a) for taxes first due and payable after 1995 is the tax rate permitted under subsection (a) as adjusted under this subsection. For each year in which an annual adjustment of the assessed value of real property will take effect under IC 6-1.1-4-4.5 or a general reassessment of property will take effect, the department of local government finance shall compute the maximum rate permitted under subsection (a) as follows:~~

~~STEP ONE: Determine the maximum rate for the year preceding the year in which the annual adjustment or general reassessment takes effect.~~

~~STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment is effective.~~

~~STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.~~

~~STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment is effective.~~

~~STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).~~

~~STEP SIX: Determine the greater of the following:~~

~~(A) Zero (0).~~

~~(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.~~

~~STEP SEVEN: Determine the quotient of:~~

~~(A) the STEP ONE tax rate, divided by~~

~~(B) one (1) plus the STEP SIX percentage increase.~~

~~This maximum rate is the maximum rate under this section until a new maximum rate is computed under this subsection for the next year in which an annual adjustment under IC 6-1.1-4-4.5 or a general reassessment of property will take effect.~~

~~(c) With respect to a county to which subsection (b) does not apply, the maximum tax rate permitted under subsection (a) for taxes first due and payable in calendar year 2004 and calendar year 2005 is the maximum tax rate that would have been determined under subsection (d) for taxes first due and payable in 2003 if subsection (d) had applied to the county for taxes first due and payable in 2003.~~

~~(d) This subsection applies only to a county to which subsection (b) does not apply. The tax rate permitted under subsection (a) for taxes first due and payable after calendar year 2005 is the tax rate permitted under subsection (c) as adjusted under this subsection. For each year in which an annual adjustment of the assessed value of real property will take effect under IC 6-1.1-4-4.5 or a general reassessment of property will take effect, the department of local government finance shall compute the maximum rate permitted under subsection (a) as follows:~~

~~STEP ONE: Determine the maximum rate for the year preceding the year in which the annual adjustment or general reassessment takes effect.~~

~~STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment is effective.~~

~~STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.~~

~~STEP FOUR: Compute separately, for each of the calendar years determined under STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the preceding year.~~

~~STEP FIVE: Divide the sum of the three (3) quotients computed under STEP FOUR by three (3).~~

~~STEP SIX: Determine the greater of the following:~~

~~(A) Zero (0).~~

~~(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.~~

~~STEP SEVEN: Determine the quotient of:~~

~~(A) the STEP ONE tax rate, divided by~~

~~(B) one (1) plus the STEP SIX percentage increase.~~

~~This maximum rate is the maximum rate under this section until a new maximum rate is computed under this subsection for the next year in which an annual adjustment under IC 6-1.1-4-4.5 or a general reassessment of property will take effect.~~

(b) The amount of funding under subsection (a) for taxes first due and payable in a calendar year is the following:

(1) For 2004, the amount is the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the amount that was levied within the county to comply with this section from property taxes first due and payable in 2002.

STEP TWO: Multiply the STEP ONE result by the county's assessed value growth quotient for the ensuing year 2003, as determined under IC 6-1.1-18.5-2.

STEP THREE: Multiply the STEP TWO result by the county's assessed value growth quotient for the ensuing year 2004, as determined under IC 6-1.1-18.5-2.

(2) For 2005 and each year thereafter, the result equal to:

(A) the amount that was levied in the county to comply with this section from property taxes first due and payable in the calendar year immediately preceding the ensuing calendar year; multiplied by

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

SECTION 17. IC 12-29-2-13, AS AMENDED BY P.L.215-2001, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 13. (a) This section applies to ~~a~~ **Lake** County. ~~having a population of not less than four hundred thousand (400,000) but not more than seven hundred thousand (700,000).~~

(b) In addition to any other appropriation under this article, ~~a~~ **the** county annually may fund each center serving the county from the county's general fund in an amount not exceeding ~~the amount that would be raised by a tax rate of one cent ($0.01) on each one hundred dollars ($100) of taxable property within the county.~~ **the following:**

(1) For 2004, the product of the amount determined under section 2(b)(1) of this chapter multiplied by seven hundred fifty-two thousandths (0.752).

(2) For 2005 and each year thereafter, the product of the amount determined under section 2(b)(2) of this chapter for that year multiplied by seven hundred fifty-two thousandths (0.752).

(c) The receipts from the tax levied under this section shall be used for the leasing, purchasing, constructing, or operating of community

residential facilities for the chronically mentally ill (as defined in IC 12-7-2-167).

(d) Money appropriated under this section must be:

(1) budgeted under IC 6-1.1-17; and

(2) included in the center's budget submitted to the division of mental health and addiction.

(e) Permission for a levy increase in excess of the levy limitations may be ordered under IC 6-1.1-18.5-15 only if the levy increase is approved by the division of mental health and addiction for a community mental health center.

SECTION 18. IC 12-29-2-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 17. (a) Bonds of a county may be issued for the construction and equipment or the improvement of a building to house a community mental health center.**

(b) If services are provided to at least two (2) counties:

(1) bonds of the counties involved may be issued to pay the proportionate cost of the project in the proportion determined and agreed upon by the fiscal bodies of the counties involved; or

(2) bonds of one (1) county may be issued and the remaining counties may annually appropriate to the county issuing the bonds amounts to be applied to the payment of the bonds and interest on the bonds in the proportion agreed upon by the county fiscal bodies of the counties involved.

SECTION 19. IC 12-29-2-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 18. All general Indiana statutes relating to the following apply to the issuance of county bonds under this chapter:**

(1) The filing of a petition requesting the issuance of bonds.

(2) The giving of notice of the following:

(A) The filing of the petition requesting the issuance of the bonds.

(B) The determination to issue bonds.

(C) A hearing on the appropriation of the proceeds of the bonds.

(3) The right of taxpayers to appear and be heard on the proposed appropriation.

(4) The approval of the appropriation by the department of local government finance.

(5) The right of taxpayers to remonstrate against the issuance of bonds.

SECTION 20. IC 12-29-2-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 19. If bonds are issued under this chapter:**

(1) the building that is constructed, equipped, or improved with proceeds of the bonds is:

(A) the property of the county issuing the bonds; or

(B) the joint property of the counties involved if the bonds are issued by at least two (2) counties; and

(2) the tax limitations in this chapter do not apply to the levy of taxes to pay the bonds and the interest on the bonds.

SECTION 21. IC 12-29-2-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 20. (a) On the first Monday in October, the county auditor shall certify to:**

(1) the division of mental health and addiction, for a community mental health center; and

(2) the president of the board of directors of each community mental health center;

the amount of money that will be provided to the community mental health center under this chapter.

(b) The county payment to the community mental health center shall be paid by the county treasurer to the treasurer of each community mental health center's board of directors in the following manner:

(1) One-half (1/2) of the county payment to the community mental health center shall be made on the second Monday in July.

(2) One-half (1/2) of the county payment to the community mental health center shall be made on the second Monday in December.

(c) A county making a payment under this section or from other county sources to a community mental health center that qualifies as a community mental health center disproportionate share provider under IC 12-15-16-1 shall certify that the payment represents expenditures eligible for financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist a county in making this certification.

(d) Payments by the county fiscal body:

(1) must be in the amounts:

(A) determined by sections 2 through 5 of this chapter; and

(B) authorized by sections 1.2 and 13 of this chapter; and

(2) are in place of grants from agencies supported within the county solely by county tax money.

SECTION 22. IC 16-21-6-7, AS AMENDED BY P.L.44-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 7. (a) The reports filed under section 3 of this chapter:

(1) may not contain information that personally identifies a patient or a consumer of health services; and

(2) must be open to public inspection.

(b) The state department shall provide copies of the reports filed under section 3 of this chapter to the public upon request, at the state department's actual cost.

(c) The following apply to information that is filed under section 6 of this chapter:

(1) Information filed with the state department's designated contractor:

(A) is confidential; and

(B) must be transferred by the contractor to the state department in a format determined by the state department.

(2) Information filed with the state department or transferred to the state department by the state department's designated contractor is not confidential, except that information that:

(A) personally identifies; or

(B) may be used to personally identify;

a patient or consumer may not be disclosed **to a third party other than to a hospital that has filed inpatient and outpatient discharge information.**

(d) An analysis completed by the state department of information that is filed under section 6 of this chapter:

(1) may not contain information that personally identifies or may be used to personally identify a patient or consumer of health services, unless the information is determined by the state department to be necessary for a public health activity;

(2) must be open to public inspection; and

(3) must be provided to the public by the state department upon request at the state department's actual cost.

SECTION 23. IC 16-39-5-3, AS AMENDED BY P.L.44-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 3. (a) As used in this section,"association" refers to an Indiana hospital trade association founded in 1921.

(b) As used in this section, "data aggregation" means a combination of information obtained from the health records of a provider with information obtained from the health records of one (1) or more other providers to permit data analysis that relates to the health care operations of the providers.

(c) Except as provided in IC 16-39-4-5, the original health record of the patient is the property of the provider and as such may be used by the provider without specific written authorization for legitimate business purposes, including the following:

(1) Submission of claims for payment from third parties.

(2) Collection of accounts.

(3) Litigation defense.

(4) Quality assurance.

(5) Peer review.

(6) Scientific, statistical, and educational purposes.

(d) In use under subsection (c), the provider shall at all times protect the confidentiality of the health record and may disclose the

identity of the patient only when disclosure is essential to the provider's business use or to quality assurance and peer review.

(e) A provider may disclose a health record to another provider or to a nonprofit medical research organization to be used in connection with a joint scientific, statistical, or educational project. Each party that receives information from a health record in connection with the joint project shall protect the confidentiality of the health record and may not disclose the patient's identity except as allowed under this article.

(f) A provider may disclose a health record or information obtained from a health record to the association for use in connection with a ~~voluntary~~ data aggregation project undertaken by the association. However, the provider may disclose the identity of a patient to the association only when the disclosure is essential to the project. The association may disclose the information it receives from a provider under this subsection to the state department to be used in connection with a ~~voluntary~~ public health activity **or data aggregation of inpatient and outpatient discharge information submitted under IC 16-21-6-6.** The information disclosed by:

(1) a provider to the association; or

(2) the association to the state department;

under this subsection is confidential.

(g) Information contained in final results obtained by the state department for a ~~voluntary~~ public health activity that:

(1) is based on information disclosed under subsection (f); and

(2) identifies or could be used to determine the identity of a patient;

is confidential. All other information contained in the final results is not confidential.

(h) Information that is:

(1) advisory or deliberative material of a speculative nature; or

(2) an expression of opinion;

including preliminary reports produced in connection with a ~~voluntary~~ public health activity using information disclosed under subsection (f), is confidential and may only be disclosed by the state department to the association and to the provider who disclosed the information to the association.

(i) The association shall, upon the request of a provider that contracts with the association to perform data aggregation, make available information contained in the final results of data aggregation activities performed by the association **in compliance with subsection (f).**

(j) A person who recklessly violates or fails to comply with subsections (e) through (h) commits a Class C infraction. Each day a violation continues constitutes a separate offense.

(k) This chapter does not do any of the following:

(1) Repeal, modify, or amend any statute requiring or authorizing the disclosure of information about any person.

(2) Prevent disclosure or confirmation of information about patients involved in incidents that are reported or required to be reported to governmental agencies and not required to be kept confidential by the governmental agencies.

SECTION 24. IC 16-39-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 3. (a) A provider may collect a charge of twenty-five cents ($0.25) per page for making and providing copies of medical records. If the provider collects a ~~retrieval~~ **labor** charge under subsection (b), the provider may not charge for making and providing copies of the first ten (10) pages of a medical record under this subsection.

(b) A provider may collect a fifteen dollar ($15) ~~retrieval~~ **labor** charge in addition to the per page charge collected under subsection (a).

(c) A provider may collect actual postage costs in addition to the charges collected under subsections (a) and (b).

(d) If the person requesting the copies requests that the copies be provided within two (2) working days, and the provider provides the copies within two (2) working days, the provider may collect a fee of ten dollars ($10) in addition to the charges collected under subsections (a) through (c).

SECTION 25. IC 12-29-2-6 IS REPEALED [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)].

SECTION 26. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)] **(a) IC 12-29-1 and IC 12-29-2, both as amended by this act, apply to property taxes first due and payable after December 31, 2003.**

(b) If the department of local government finance determines that compliance with this act would cause an unreasonable delay in the certification of budgets, tax rates, and tax levies in a county, the department of local government finance may certify budgets, tax rates, and tax levies for the county under IC 6-1.1-18-12, IC 12-29-1, and IC 12-29-2 as if this act had not been passed. However, if the department of local government finance takes this action, the affected county and the department of local government finance shall provide for an additional shortfall property tax levy and an additional budgeted amount in 2005 to replace the revenue lost in 2004 to community mental health centers as a result of certifying budgets, tax rates, and tax levies for the county under IC 6-1.1-18-12, IC 12-29-1, and IC 12-29-2 as if this act had not been passed.

(c) The amount of the shortfall levy under subsection (b) shall be treated as an addition to the amount allowed in 2005 under IC 12-29-2, as amended by this act. The ad valorem property tax levy limits imposed by IC 12-29-2, as amended by this act, do not apply to ad valorem property taxes imposed under subsection (b). The shortfall levy imposed under this SECTION may not be considered in computing ad valorem property tax levies under IC 12-29-2, as amended by this act, for property taxes first due and payable after 2005.

SECTION 27. P.L.224-2003, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: SECTION 70. (a) As used in this SECTION, ~~"high Medicaid utilization nursing facility" means the smallest number of those nursing facilities with the greatest number of Medicaid patient days for which it is necessary to assess a lower quality assessment to satisfy the statistical test set forth in 42 CFR 433.68(e)(2)(ii).~~ **"health facility" refers to a health facility is licensed under IC 16-28 as a comprehensive care facility.**

(b) As used in this SECTION, "nursing facility" means a health facility that is

~~(1) licensed under IC 16-28 as a comprehensive care facility; and~~

~~(2)~~ certified for participation in the federal Medicaid program under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.).

(c) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(d) As used in this SECTION, "total annual revenue" does not include revenue from Medicare services provided under Title XVIII of the federal Social Security Act (42 U.S.C. 1395 et seq.).

(e) Effective August 1, 2003, the office shall collect a quality assessment from each nursing facility that has:

(1) a Medicaid utilization rate of at least twenty-five percent (25%); and

(2) at least seven hundred thousand dollars ($700,000) in annual Medicaid revenue, adjusted annually by the average annual percentage increase in Medicaid rates.

(f) **If the United States Centers for Medicare and Medicaid Services determines not to approve payments under this SECTION using the methodology described in subsection (e), the office shall revise the state plan amendment and waiver request submitted under subsection (l) as soon as possible to demonstrate compliance with 42 CFR 433.68(e)(2)(ii). In amending the state plan amendment and waiver request under this subsection, the office shall collect a quality assessment effective August 1, 2003, from each health facility except the following:**

(1) A continuing care retirement community.

(2) A health facility that only receives revenue from Medicare services provided under 42 USC 1395 et seq.

(3) A health facility that has less than seven hundred fifty thousand dollars ($750,000) in total annual revenue, adjusted annually by the average annual percentage increase in Medicaid rates.

(4) The Indiana Veterans' Home.

Any revision to the state plan amendment or waiver request under this subsection is subject to and must comply with the provisions of this SECTION.

(g) If the United States Centers for Medicare and Medicaid Services determines not to approve payments under this SECTION using the methodology described in subsections (e) and (f), the office shall revise the state plan amendment and waiver request submitted under subsection (l) as soon as possible to demonstrate compliance with 42 CFR 433.68(e)(2)(ii) and to collect a quality assessment from health facilities effective August 1, 2003. In amending the state plan amendment and waiver request under this subsection, the office may modify the parameters described in subsection (f)(1) through (f)(4). However, if the office determines a need to modify the parameters described in subsection (f)(1) through (f)(4), the office shall modify the parameters in order to achieve a methodology and result as similar as possible to the methodology and result described in subsection (f). Any revision of the state plan amendment and waiver request under this subsection is subject to and must comply with the provisions of this SECTION.

(h) The money collected from the quality assessment may be used only to pay the state's share of the costs for Medicaid services provided under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.) as follows:

(1) Twenty percent (20%) as determined by the office.

(2) Eighty percent (80%) to nursing facilities.

~~(g)~~ **(i)** The office may not begin collection of the quality assessment set under this SECTION before the office calculates and begins paying enhanced reimbursement rates set forth in this SECTION.

~~(h)~~ **(j)** If federal financial participation becomes unavailable to match money collected from the quality assessments for the purpose of enhancing reimbursement to nursing facilities for Medicaid services provided under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.), the office shall cease collection of the quality assessment under the SECTION.

~~(i)~~ **(k)** The office shall adopt rules under IC 4-22-2 to implement this act.

~~(j)~~ **(l)** Not later than July 1, 2003, the office shall do the following:

(1) Request the United States Department of Health and Human Services under 42 CFR 433.72 to approve waivers of 42 CFR 433.68(c) and 42 CFR 433.68(d) by demonstrating compliance with 42 CFR 433.68(e)(2)(ii).

(2) Submit any state Medicaid plan amendments to the United States Department of Health and Human Services that are necessary to implement this SECTION.

~~(k)~~ **(m)** After approval of the waivers and state Medicaid plan amendment applied for under subsection ~~(j),~~ **(l),** the office shall implement this SECTION effective July 1, 2003.

~~(l)~~ **(n)** The select joint commission on Medicaid oversight, established by IC 2-5-26-3, shall review the implementation of this SECTION. The office may not make any change to the reimbursement for nursing facilities unless the select joint commission on Medicaid oversight recommends the reimbursement change.

~~(m)~~ **(o)** A nursing facility may not charge the nursing facility's residents for the amount of the quality assessment that the nursing facility pays under this SECTION.

~~(n)~~ **(p) The office may withdraw a state plan amendment under subsection (e), (f), or (g) only if the office determines that failure to withdraw the state plan amendment will result in the expenditure of state funds not funded by the quality assessment.**

(q) This SECTION expires August 1, ~~2004.~~ **2005.**

SECTION 28. [EFFECTIVE JULY 1, 2004] **(a) In addition to the duties specified under IC 2-5-26, the select joint commission on Medicaid oversight established by IC 2-5-26-3 shall, to the extent the commission determines is feasible after consultation with the office of Medicaid policy and planning established by IC 12-8-6-1, study the following effects of the repeal of continuous eligibility for children under the Indiana Medicaid program and the children's health insurance program established under IC 12-17.6-2:**

(1) Effects on government, including the following:

(A) Costs to Medicaid and the division of family and children established by IC 12-13-1-1 due to more frequent recertification requirements.

(B) Loss of revenue from federal matching funds that could not be obtained because of the repeal of continuous eligibility.

(2) Effects on the economy, including the following:

(A) Indirect cost shifting to providers due to increased charity care because recipients have lapses in eligibility.

(B) Increased burdens on township assistance (poor relief).

(3) Effects on children, including the following:

(A) Increases in the level of uninsured children in Indiana.

(B) Decreases in wellness and the effects on the educational abilities of sicker children.

(4) Effects on families, including the following:

(A) Effects on family income due to the burden of sicker children.

(B) Effects on the ability of parents to maintain stable employment due to sicker children or more burdensome recertification procedures.

(b) The select joint commission on Medicaid oversight shall submit to the legislative council before November 1, 2004, a report of its findings and recommendations concerning the study under subsection (a). The report must be submitted in an electronic format under IC 5-14-6.

(c) This SECTION expires January 1, 2005.

SECTION 29. [EFFECTIVE UPON PASSAGE] **(a) The state budget committee shall review the funding allocations for mental health institutions and community mental health centers for state fiscal year 2004-2005.**

(b) As part of the budget build up process for the 2005 session of the general assembly, the state budget committee shall make recommendations to the general assembly concerning funding for mental health institutions and community mental health centers for the 2005-2007 biennial budget.

(c) This SECTION expires December 31, 2005.

SECTION 30. **An emergency is declared for this act.**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1320 as reprinted February 24, 2004.)

HASLER	MILLER
SCHOLER	SIMPSON
House Conferees	Senate Conferees

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

ENROLLED ACTS SIGNED

The Speaker announced that he had signed House Enrolled Acts 1029, 1042, 1054, 1070, 1080, 1082, 1102, 1117, 1133, 1136, 1150, 1178, 1190, 1197, 1200, 1218, 1245, 1253, 1257, 1265, 1293, 1304, 1306, 1308, 1341, 1344, and 1352 and Senate Enrolled Acts 36, 296, and 363 on March 4.

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 23

The Speaker handed down Senate Concurrent Resolution 23, sponsored by Representative Foley:

A CONCURRENT RESOLUTION honoring Bishop Woodie White on the occasion of his retirement.

Whereas, On August 31, 2004, Bishop Woodie White will retire as Bishop of the Indiana Area of the United Methodist Church, a position he has held since 1992;

Whereas, Bishop White was the first black man to be named Bishop of the Indiana Area of the United Methodist Church;

Whereas, Bishop White has had a career of "firsts";

Whereas, In 1963, Bishop White became the first black pastor of the East Grand Boulevard United Methodist Church, a predominantly white United Methodist church in Detroit, Michigan;

Whereas, In 1967, Bishop White became the first black person to hold the position of urban missioner for the United Methodist Church in Detroit;

Whereas, In 1969, Bishop White became the first black person to

be named the general secretary of the General Commission on Religion and Race for the United Methodist Church;

Whereas, In 1984, Bishop White was the first black man to become Bishop of Illinois;

Whereas, The oldest child of a beautician and a retail clerk, Bishop White grew up in a section of New York City known as Harlem;

Whereas, Through hard work and dedication, Bishop White escaped the violence and poverty that was prevalent in Harlem and earned a Bachelor of Arts degree from Paine College in Georgia and a Master of Divinity degree from Boston University in Massachusetts;

Whereas, Originally planning to become a lawyer, Bishop White's plans were changed one winter morning in 1954 after he entered a church and prayed for guidance;

Whereas, Bishop White was no longer unsure of his future and knew exactly what he was meant to do;

Whereas, Bishop White has been actively involved in the civil rights movement all his life;

Whereas, In 1963, Bishop White traveled to Mississippi during the civil rights movement and was arrested, along with his friend Ed King and a white minister, while attempting to enter a white church;

Whereas, In 1967, Bishop White and another white minister walked the streets of Detroit during a race riot in an attempt to bring peace to the area;

Whereas, Throughout his career, Bishop White has focused on two major challenges: reversing the church's declining membership and improving race relations; and

Whereas, Bishop White has been widely known, deeply loved, and greatly admired for his leadership and dedication to the improvement of race relations in the church and his commitment to church spiritual and numerical growth; he will also be remembered for his deep concern for people: 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 expresses its deeply felt gratitude to Bishop White for his dedication and devotion to the members of the United Methodist Church and all of mankind. We wish Bishop White happiness in his retirement and continued success in his life.

SECTION 2. That copies of this resolution be transmitted by the Secretary of the Senate to Bishop Woodie White and his family.

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 43

The Speaker handed down Senate Concurrent Resolution 43, sponsored by Representative Foley:

A CONCURRENT RESOLUTION honoring Jennie May Tolson White.

Whereas, Jennie May Tolson White has devoted her life to helping children;

Whereas, Jennie May Tolson White, known as Kim, is an elementary school teacher who was named Teacher of the Year by the Springfield, Illinois, school district in 1992;

Whereas, Jennie May Tolson White is a recognized leader in the field of special needs children and has also worked as a teacher in an English as a second language program;

Whereas, Jennie May Tolson White is active in the United Methodist Church, working with children in poverty;

Whereas, Jennie May Tolson White is also an artist who paints, sculpts, and directs liturgical dance; and

Whereas, Education is vital to the success of America's youth, and Jennie May Tolson White has dedicated herself to educating young people and helping them achieve their goals: 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 expresses its gratitude to Jennie May Tolson White for her countless hours of dedicated service to children.

SECTION 2. That copies of this resolution be transmitted by the Secretary of the Senate to Jennie May Tolson White and her family.

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.

House Resolution 77

Representatives Reske, Messer, J. Lutz, and Austin introduced House Resolution 77:

A HOUSE RESOLUTION urging the establishment of an interim study committee to study the equine and agriculture industries in Indiana.

Whereas, The Indiana equine and agricultural industries make a considerable contribution to the economy of the Hoosier state as well as to sport and recreation: 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 committee to study the equine and agriculture industries in Indiana.

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.

House Resolution 78

Representatives Grubb and Bottorff introduced House Resolution 78:

A HOUSE RESOLUTION urging the Legislative Council to assign to the Environmental Quality Service Council the topic of extending the age of vehicles in Clark County and Floyd County that would be exempt from the ozone testing from four years to six years of age.

Whereas, Despite the fact that highway vehicles account for a substantial amount of the ozone-forming emissions, there is a need to study the possibility of extending the age of vehicles that would be exempt from ozone testing: 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 assign to the Environmental Quality Service Council the topic of extending the age of vehicles in Clark County and Floyd County that would be exempt from the ozone testing from four years to six years of age.

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.

House Resolution 79

Representative Kuzman introduced House Resolution 79:

A HOUSE RESOLUTION honoring Frank Eccles.

Whereas, Frank Eccles, head baseball coach at Calumet College of St. Joseph and a resident of Crown Point, is being awarded the Illinois High School Baseball Coaches Association Les Miller Man of the Year Award;

Whereas, Frank Eccles is the only person to ever receive this award twice;

Whereas, Frank Eccles, who has been coaching for forty-eight years, developed the Calumet College of St. Joseph baseball program from scratch;

Whereas, While coaching at Calumet College of St. Joseph, Frank Eccles won the 800th game of his career;

Whereas, Frank Eccles has received numerous awards and recognitions during his career, including induction into the Illinois High School Baseball Coaches Hall of Fame and the Thornton High School Hall of Fame, ABCA and National High School Baseball Coaches Association awards, the Merit Award from the Pitch and Hit Club of Chicago, and the naming of the baseball field in Clarendon Hills, Illinois, in his honor as Eccles Field;

Whereas, In addition to coaching, Frank Eccles taught special education, history, geography, physical education, and driver education; and

Whereas, Educators help to mold the youth of our state, and Frank Eccles has helped to improve the lives of countless students: 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 congratulates Frank Eccles on his selection as the recipient of the Illinois High School Baseball Coaches Association Les Miller Man of the Year Award and wishes him continued success in his future endeavors.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Frank Eccles and his family.

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

House Resolution 80

Representative Buck introduced House Resolution 80:

A HOUSE RESOLUTION honoring Charles M. Conkle, Jr. who was named 2004 *Time Magazine* Quality Dealer Award.

Whereas, Charles M. Conkle, Jr., graduated from Indiana University in 1960 with a Bachelor of Science in Business;

Whereas, Charles M. Conkle has been the president of Charles Conkle Motor Co., Inc., a Pontiac dealership in Kokomo since 1966;

Whereas, Charles M. Conkle has been active in many dealer organizations including the Automobile Dealers Association of Indiana-District Director for eight years, Vice President and President in 1991, Kokomo New Car Dealer's Association-President for three years, and active in other advisory boards;

Whereas, Charles M. Conkle's civic activities include St. Joseph Hospital Foundation Board for six years, United Way of Howard County for four years, President of Golden Tee Partners, March of Dimes Campaign and member of Grace Methodist Church for fifty-three years;

Whereas, Charles M. Conkle and his wife, JJ, have been married forty-three years and have 3 children and 4 grandchildren; and

Whereas, Charles M. Conkle was recently honored as the Automobile Dealers Association of Indiana's 2004 Time Magazine Quality Dealer Award recipient: 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 honors Charles M. Conkle, Jr. for his achievement and the recognition that has been bestowed upon him.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Charles M. Conkle, Jr.

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

MOTIONS TO DISSENT FROM SENATE AMENDMENTS

HOUSE MOTION

Mr. Speaker: I move that the House dissent from the Senate amendments to Engrossed House Bill 1050 and that the Speaker appoint a committee to confer with a like committee from the Senate and report back to the House.

HINKLE

Motion prevailed.

CONFEREES AND ADVISORS APPOINTED

The Speaker announced the appointment of Representatives to conference committees on the following Engrossed House Bills (the Representative listed first is the Chair):

EHB 1050 Conferees: Hasler and Hinkle
Advisors: Bardon, Moses, Borror, and Thomas

MOTIONS TO CONCUR IN SENATE AMENDMENTS

HOUSE MOTION

Mr. Speaker: I move that the House concur in the Senate amendments to Engrossed House Bill 1044.

V. SMITH

Roll Call 263: yeas 58, nays 36. Motion prevailed.

ACTION ON GUBERNATORIAL VETOES

Senate Enrolled Act 337

MESSAGE FROM THE GOVERNOR

Mr. President and Members of the Senate: Senate Enrolled Act 337 sets up a Native American Indian Affairs Commission. The statute specifies the membership of the commission and its duties. Establishing this commission is an important and positive step toward improving the status of Native Americans who reside in Indiana and attending to Native American burial grounds.

The problem with this bill is its incorporation of the definition of "Indian" from federal law, 25 United States Code 450b(d). This federal statute defines "Indian" as a member of a tribe "which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." At least one important group of Native Americans in Indiana, the Miami of Indiana, are not a federally recognized tribe and therefore do not fit within this federal definition. Members of the Miami of Indiana were eligible for appointment to the Commission under the language passed by the Senate. The language was changed later in the legislative process.

Despite the significant presence of Miami of Indiana in this State, the incorporation of the federal definition in Senate Enrolled Act 337 would preclude me from appointing any members of the Miami of Indiana as members of the Native American Indian Affairs Commission and probably would preclude the Commission from addressing issues relating to Miami archaeology and burial grounds.

I therefore will veto SEA 337 and instead set up a Native American Indian Affairs Commission, without the restriction on membership, by Executive Order. My Executive Order will generally reflect the provisions of SEA 337, and I will promulgate the Executive Order promptly. I strongly encourage the General Assembly to correct the problem relating to the federal definition of "Indian" as soon as practicable and to re-establish the commission by statute.

I hereby veto Senate Enrolled Act 337 and return it to the Senate for further action.

Date: May 8, 2003

FRANK O'BANNON
Governor

The Speaker handed down Senate Enrolled Act 337, passed by the First Regular Session of the 113th General Assembly.

AN ACT to amend the Indiana Code concerning state offices and administration.

The merits of Senate Enrolled Act 337 and the governor's veto were debated. The question was, Shall Senate Enrolled Act 337 pass, the Governor's veto notwithstanding?

Roll Call 264: yeas 88, nays 6. The Governor's veto was overridden.

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 President Pro Tempore of the Senate has appointed the following Senators a conference committee to confer on Engrossed House Bill 1050:

Conferees: Clark and Breaux

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 1151:

Conferee: Miller replacing C. Lawson

MARY C. MENDEL
Principal Secretary of the Senate

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 3:50 p.m. with the Speaker in the Chair.

Representative Ripley and Saunders were excused.

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 19–1, 194–1, and 278–1.

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 83, 106, 133, and 449.

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 Bill 1203–1.

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 passed House Concurrent Resolution 46 and the same is herewith returned to the House.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I hereby transmit Senate Enrolled Acts 42, 83, 106, 133, and 449 for signature.

MARY C. MENDEL
Principal Secretary of the Senate

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
EHB 1050–1; filed March 4, 2004, at 12:03 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 1050 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 36-7-4-207 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 207. (a) ADVISORY. In a city having a park board and a city civil engineer, the city plan commission consists of nine (9) members, as follows:

(1) One (1) member appointed by the city legislative body from its membership.

(2) One (1) member appointed by the park board from its membership.

(3) One (1) member or designated representative appointed by the city works board.

(4) The city civil engineer or a qualified assistant appointed by the city civil engineer.

(5) Five (5) citizen members, of whom no more than three (3) may be of the same political party, appointed by the city executive.

(b) ADVISORY. If a city lacks either a park board or a city civil engineer, or both, subsection (a) does not apply. In such a city or in any town, the municipal plan commission consists of seven (7) members, as follows:

(1) The municipal legislative body shall appoint three (3) persons, who must be elected or appointed municipal officials or employees in the municipal government, as members.

(2) The municipal executive shall appoint four (4) citizen members, of whom no more than two (2) may be of the same political party.

(c) AREA. To provide equitable representation of rural and urban populations, representation on the area plan commission is determined as follows:

(1) Seven (7) representatives from each city having a population of more than one hundred five thousand (105,000).

(2) Six (6) representatives from each city having a population of not less than seventy thousand (70,000) nor more than one hundred five thousand (105,000).

(3) Five (5) representatives from each city having a population of not less than thirty-five thousand (35,000) but less than seventy thousand (70,000).

(4) Four (4) representatives from each city having a population of not less than twenty thousand (20,000) but less than thirty-five thousand (35,000).

(5) Three (3) representatives from each city having a population of not less than ten thousand (10,000) but less than twenty thousand (20,000).

(6) Two (2) representatives from each city having a population of less than ten thousand (10,000).

(7) One (1) representative from each town having a population of more than two thousand one hundred (2,100), and one (1) representative from each town having a population of two thousand one hundred (2,100) or less that had a representative before January 1, 1979.

(8) Such representatives from towns having a population of not more than two thousand one hundred (2,100) as are provided for in section 210 of this chapter.

(9) Six (6) county representatives if the total number of municipal representatives in the county is an odd number, or five (5) county representatives if the total number of municipal representatives is an even number.

(d) METRO. The metropolitan development commission consists of ~~eleven (11)~~ **nine (9)** citizen members, as follows:

(1) ~~Five (5)~~ **Four (4)** members, of whom no more than ~~three (3)~~ **two (2)** may be of the same political party, appointed by the executive of the consolidated city.

(2) Three (3) members, of whom no more than two (2) may be of the same political party, appointed by the legislative body of the consolidated city.

(3) Two (2) members, who must be of different political parties, appointed by the board of commissioners of the county.

~~(4) One (1) member who represents the township legislative bodies. The procedure for the township legislative bodies for appointing the member shall be established by an ordinance adopted by the legislative body of the consolidated city.~~

~~by an ordinance adopted by the legislative body of the consolidated city.~~

SECTION 2. IC 36-7-4-208, AS AMENDED BY P.L.173-2003, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: 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~~ **Each of the** four (4) ~~of whom~~ **members** must be:

~~residents~~ **(i) a resident** of **an** unincorporated ~~areas~~ **area** of the county; **or**

(ii) a resident of the county who is also an owner of real property located in whole or in part in an unincorporated area of the county;

appointed by the county executive. **However at least two (2) of the citizen members must be residents of the unincorporated area of the county.** 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~~ **Each of the** five (5) ~~of whom~~ **members** must be:

~~residents~~ **(i) a resident** of **an** unincorporated ~~areas~~ **area** of the county; **or**

(ii) a resident of the county who is also an owner of real property located in whole or in part in an unincorporated area of the county;

appointed by the county executive. **However at least two (2) members must be residents of the unincorporated area of the county.**

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:

(A) ~~are residents of~~ **reside in an** unincorporated ~~areas~~ **area** of the county; **or**

(B) reside in the county and also own real property located in whole or in part in an unincorporated area 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) a resident of the unincorporated area of the county; **or**

(B) a resident of the county who is also an owner of real property located in whole or in part in the unincorporated area of the county;

appointed by the county executive.

(6) One (1) citizen member who is:

(A) a resident of the unincorporated area of the county; **or**

(B) a resident of the county who is also an owner of real property located in whole or in part in 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 3. IC 36-7-4-903, AS AMENDED BY P.L.216-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 903. ADVISORY. (a) When a municipal plan commission exercises jurisdiction outside the incorporated area of the municipality as provided for in section 205 or 1208 of the advisory planning law, either:

(1) an additional division of the board of zoning appeals shall be established under section 901(b) of this chapter that will have territorial jurisdiction only in the unincorporated area and consist only of residents of the unincorporated area; or

(2) the municipal plan commission shall designate, as its appointment to the municipal board of zoning appeals under section 902(a)(3) of this chapter, one (1) of the two (2) citizen members who were appointed under section 214 of this chapter to the plan commission to represent the unincorporated area. The citizen member must reside in the unincorporated area; ~~He;~~ **The citizen** shall be appointed for a term of four (4) years. ~~He~~ **The citizen** is entitled to participate and vote in all deliberations of the municipal board of zoning appeals.

(b) Notwithstanding section 902(g) of this chapter, if the zoning ordinance provides for an additional division of the board of zoning appeals under subsection (a)(1), the ordinance may also provide for the appointment of one (1) or more members of that division by elected officials of the county or township.

SECTION 4. IC 36-7-4-608.5 IS REPEALED [EFFECTIVE JULY 1, 2004].

Renumber all SECTIONS consecutively.
(Reference is to EHB 1050 as reprinted February 26, 2004.)

HASLER	CLARK
HINKLE	BREAUX
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1320–2; filed March 4, 2004, at 12:04 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 1320 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 6-1.1-18-12, AS ADDED BY P.L.1-2004, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 12, 2003 (RETROACTIVE)]: Sec. 12. (a) For purposes of this section, "maximum rate" refers to the maximum:

(1) property tax rate or rates; or
(2) special benefits tax rate or rates;

referred to in the statutes listed in subsection (d).

(b) The maximum rate for taxes first due and payable after 2003 is the maximum rate that would have been determined under subsection (e) for taxes first due and payable in 2003 if subsection (e) had applied for taxes first due and payable in 2003.

(c) The maximum rate must be adjusted:

(1) each time an annual adjustment of the assessed value of real property takes effect under IC 6-1.1-4-4.5; and
(2) each time a general reassessment of real property takes effect under IC 6-1.1-4-4.

(d) The statutes to which subsection (a) refers are:

(1) IC 8-10-5-17;
(2) IC 8-22-3-11;
(3) IC 8-22-3-25;
(4) IC 12-29-1-1;
(5) IC 12-29-1-2;
(6) IC 12-29-1-3;
~~(7) IC 12-29-2-13;~~
~~(8)~~ **(7)** IC 12-29-3-6;
~~(9)~~ **(8)** IC 13-21-3-12;
~~(10)~~ **(9)** IC 13-21-3-15;
~~(11)~~ **(10)** IC 14-27-6-30;
~~(12)~~ **(11)** IC 14-33-7-3;
~~(13)~~ **(12)** IC 14-33-21-5;
~~(14)~~ **(13)** IC 15-1-6-2;
~~(15)~~ **(14)** IC 15-1-8-1;
~~(16)~~ **(15)** IC 15-1-8-2;
~~(17)~~ **(16)** IC 16-20-2-18;
~~(18)~~ **(17)** IC 16-20-4-27;
~~(19)~~ **(18)** IC 16-20-7-2;
~~(20)~~ **(19)** IC 16-23-1-29;
~~(21)~~ **(20)** IC 16-23-3-6;
~~(22)~~ **(21)** IC 16-23-4-2;
~~(23)~~ **(22)** IC 16-23-5-6;
~~(24)~~ **(23)** IC 16-23-7-2;
~~(25)~~ **(24)** IC 16-23-8-2;
~~(26)~~ **(25)** IC 16-23-9-2;
~~(27)~~ **(26)** IC 16-41-15-5;
~~(28)~~ **(27)** IC 16-41-33-4;
~~(29)~~ **(28)** IC 20-5-17.5-2;
~~(30)~~ **(29)** IC 20-5-17.5-3;
~~(31)~~ **(30)** IC 20-5-37-4;
~~(32)~~ **(31)** IC 20-14-7-5.1;
~~(33)~~ **(32)** IC 20-14-7-6;
~~(34)~~ **(33)** IC 20-14-13-12;
~~(35)~~ **(34)** IC 21-1-11-3;
~~(36)~~ **(35)** IC 21-2-17-2;
~~(37)~~ **(36)** IC 23-13-17-1;
~~(38)~~ **(37)** IC 23-14-66-2;
~~(39)~~ **(38)** IC 23-14-67-3;
~~(40)~~ **(39)** IC 36-7-13-4;
~~(41)~~ **(40)** IC 36-7-14-28;
~~(42)~~ **(41)** IC 36-7-15.1-16;
~~(43)~~ **(42)** IC 36-8-19-8.5;
~~(44)~~ **(43)** IC 36-9-6.1-2;
~~(45)~~ **(44)** IC 36-9-17.5-4;
~~(46)~~ **(45)** IC 36-9-27-73;
~~(47)~~ **(46)** IC 36-9-29-31;
~~(48)~~ **(47)** IC 36-9-29.1-15;
~~(49)~~ **(48)** IC 36-10-6-2;
~~(50)~~ **(49)** IC 36-10-7-7;
~~(51)~~ **(50)** IC 36-10-7-8;
~~(52)~~ **(51)** IC 36-10-7.5-19; and
~~(53)~~ **(52)** any statute enacted after December 31, 2003, that:

(A) establishes a maximum rate for any part of the:
(i) property taxes; or
(ii) special benefits taxes;
imposed by a political subdivision; and
(B) does not exempt the maximum rate from the adjustment under this section.

(e) The new maximum rate under a statute listed in subsection (d) is the tax rate determined under STEP SEVEN of the following STEPS:

STEP ONE: Determine the maximum rate for the political subdivision levying a property tax or special benefits tax under the statute for the year preceding the year in which the annual adjustment or general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment takes effect.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first take effect.

STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

(A) Zero (0).
(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of the STEP ONE tax rate divided by the sum of one (1) plus the STEP SIX percentage increase.

(f) The department of local government finance shall compute the maximum rate allowed under subsection (e) and provide the rate to each political subdivision with authority to levy a tax under a statute listed in subsection (d).

SECTION 2. IC 6-1.1-18.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 10. (a) The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a civil taxing unit to be used to fund:

(1) community mental health centers under: ~~IC 12-29-2-1~~
(A) IC 12-29-2-1.2, for only those civil taxing units that authorized financial assistance under IC 12-29-1 before 2002 for a community mental health center as long as the tax levy under this section does not exceed the levy authorized in 2002;
(B) IC 12-29-2-2 through ~~IC 12-29-2-6~~ **IC 12-29-2-5; and**
(C) IC 12-29-2-13; or

(2) community mental retardation and other developmental

disabilities centers under IC 12-29-1-1;

to the extent that those property taxes are attributable to any increase in the assessed value of the civil taxing unit's taxable property caused by a general reassessment of real property that took effect after February 28, 1979.

(b) For purposes of computing the ad valorem property tax levy limits imposed on a civil taxing unit by section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular calendar year does not include that part of the levy described in subsection (a).

SECTION 3. IC 12-15-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) If the office of the secretary believes that an overpayment to a provider has occurred, the office of the secretary may do the following:

(1) Notify the provider in writing that the office of the secretary believes that an overpayment has occurred.

(2) Request in the notice that the provider repay the amount of the alleged overpayment, including interest from the date of overpayment.

(b) ~~Except as provided in subsection (c),~~ A provider who receives a notice and request for repayment under subsection (a) may elect to do one (1) of the following:

(1) Repay the amount of the overpayment not later than sixty (60) days after receiving notice from the office of the secretary, including interest from the date of overpayment.

(2) Request a hearing and repay the amount of the alleged overpayment not later than sixty (60) days after receiving notice from the office of the secretary.

(3) Request a hearing not later than sixty (60) days after receiving notice from the office of the secretary and not repay the alleged overpayment, except as provided in subsection (d).

(c) If:

(1) a provider elects to proceed under subsection (b)(2); and

(2) the office of the secretary determines after the hearing and any subsequent appeal that the provider does not owe the money that the office of the secretary believed the provider owed;

the office of the secretary shall return the amount of the alleged overpayment and interest paid and pay the provider interest on the money from the date of the provider's repayment.

(d) If:

(1) a provider elects to proceed under subsection (b)(3); and

(2) the office of the secretary determines after the hearing and any subsequent appeal that the provider owes the money;

the provider shall pay the amount of the overpayment, including interest from the date of the overpayment.

~~(c) A hospital licensed under IC 16-21 that receives a notice and request for repayment under subsection (a) has one hundred eighty (180) days to elect one (1) of the actions under subsection (b)(1), (b)(2), or (b)(3).~~

~~(f)~~ **(e)** Interest that is due under this section shall be paid at a rate that is determined by the commissioner of the department of state revenue under IC 6-8.1-10-1(c) as follows:

(1) Interest due from a provider to the state shall be paid at the rate set by the commissioner for interest payments from the department of state revenue to a taxpayer.

(2) Interest due from the state to a provider shall be paid at the rate set by the commissioner for interest payments from the department of state revenue to a taxpayer.

~~(g)~~ **(f)** Proceedings under this section are subject to IC 4-21.5.

SECTION 4. IC 12-15-15-1.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: **Sec. 1.6. (a) This section applies only if the office determines, based on information received from the federal Centers for Medicare and Medicaid Services, that payments made under section 1.5(b) STEP FIVE (A), (B), or (C) of this chapter will not be approved for federal financial participation.**

(b) If the office determines that payments made under section 1.5(b) STEP FIVE (A) of this chapter will not be approved for federal financial participation, the office may make alternative payments to payments under section 1.5(b) STEP FIVE (A) of this chapter if:

(1) the payments for a state fiscal year are made only to a hospital that would have been eligible for a payment for that state fiscal year under section 1.5(b) STEP FIVE (A) of this chapter; and

(2) the payments for a state fiscal year to each hospital are an amount that is as equal as possible to the amount each hospital would have received under section 1.5(b) STEP FIVE (A) of this chapter for that state fiscal year.

(c) If the office determines that payments made under section 1.5(b) STEP FIVE (B) of this chapter will not be approved for federal financial participation, the office may make alternative payments to payments under section 1.5(b) STEP FIVE (B) of this chapter if:

(1) the payments for a state fiscal year are made only to a hospital that would have been eligible for a payment for that state fiscal year under section 1.5(b) STEP FIVE (B) of this chapter; and

(2) the payments for a state fiscal year to each hospital are an amount that is as equal as possible to the amount each hospital would have received under section 1.5(b) STEP FIVE (B) of this chapter for that state fiscal year.

(d) If the office determines that payments made under section 1.5(b) STEP FIVE (C) of this chapter will not be approved for federal financial participation, the office may make alternative payments to payments under section 1.5(b) STEP FIVE (C) of this chapter if:

(1) the payments for a state fiscal year are made only to a hospital that would have been eligible for a payment for that state fiscal year under section 1.5(b) STEP FIVE (C) of this chapter; and

(2) the payments for a state fiscal year to each hospital are an amount that is as equal as possible to the amount each hospital would have received under section 1.5(b) STEP FIVE (C) of this chapter for that state fiscal year.

(e) If the office determines, based on information received from the federal Centers for Medicare and Medicaid Services, that payments made under subsection (b), (c), or (d) will not be approved for federal financial participation, the office shall use the funds that would have served as the nonfederal share of these payments for a state fiscal year to serve as the nonfederal share of a payment program for hospitals to be established by the office. The payment program must distribute payments to hospitals for a state fiscal year based upon a methodology determined by the office to be equitable under the circumstances.

SECTION 5. IC 12-15-15-9, AS AMENDED BY P.L.255-2003, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 9. (a) For purposes of this section and IC 12-16-7.5-4.5, a payable claim is attributed to a county if the payable claim is submitted to the division by a hospital licensed under IC 16-21-2 for payment under IC 12-16-7.5 for care provided by the hospital to an individual who qualifies for the hospital care for the indigent program under IC 12-16-3.5-1 or IC 12-16-3.5-2 and:

(1) who is a resident of the county;

(2) who is not a resident of the county and for whom the onset of the medical condition that necessitated the care occurred in the county; or

(3) whose residence cannot be determined by the division and for whom the onset of the medical condition that necessitated the care occurred in the county.

(b) For each state fiscal year ending after June 30, 2003, a hospital licensed under IC 16-21-2 that submits to the division during the state fiscal year a payable claim under IC 12-16-7.5 is entitled to a payment under this section.

(c) ~~For a state fiscal year,~~ **Except as provided in section 9.8 of this chapter and** subject to section 9.6 of this chapter, **for a state fiscal year,** the office shall pay to a hospital referred to in subsection (b) an amount equal to the amount, based on information obtained from the division and the calculations and allocations made under IC 12-16-7.5-4.5, that the office determines for the hospital under STEP SIX of the following STEPS:

STEP ONE: Identify:

(A) each hospital that submitted to the division one (1) or more payable claims under IC 12-16-7.5 during the state

fiscal year; and

(B) the county to which each payable claim is attributed.

STEP TWO: For each county identified in STEP ONE, identify:

(A) each hospital that submitted to the division one (1) or more payable claims under IC 12-16-7.5 attributed to the county during the state fiscal year; and

(B) the total amount of all hospital payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year.

STEP THREE: For each county identified in STEP ONE, identify the amount of county funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b).

STEP FOUR: For each hospital identified in STEP ONE, with respect to each county identified in STEP ONE, calculate the hospital's percentage share of the county's funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b). Each hospital's percentage share is based on the total amount of the hospital's payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year, calculated as a percentage of the total amount of all hospital payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year.

STEP FIVE: Subject to subsection (j), for each hospital identified in STEP ONE, with respect to each county identified in STEP ONE, multiply the hospital's percentage share calculated under STEP FOUR by the amount of the county's funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b).

STEP SIX: Determine the sum of all amounts calculated under STEP FIVE for each hospital identified in STEP ONE with respect to each county identified in STEP ONE.

(d) A hospital's payment under subsection (c) is in the form of a Medicaid add-on payment. The amount of a hospital's add-on payment is subject to the availability of funding for the non-federal share of the payment under subsection (e). The office shall make the payments under subsection (c) before December 15 that next succeeds the end of the state fiscal year.

(e) The non-federal share of a payment to a hospital under subsection (c) is funded from the funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) of each county to which a payable claim under IC 12-16-7.5 submitted to the division during the state fiscal year by the hospital is attributed.

(f) The amount of a county's transferred funds available to be used to fund the non-federal share of a payment to a hospital under subsection (c) is an amount that bears the same proportion to the total amount of funds of the county transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) that the total amount of the hospital's payable claims under IC 12-16-7.5 attributed to the county submitted to the division during the state fiscal year bears to the total amount of all hospital payable claims under IC 12-16-7.5 attributed to the county submitted to the division during the state fiscal year.

(g) Any county's funds identified in subsection (f) that remain after the non-federal share of a hospital's payment has been funded are available to serve as the non-federal share of a payment to a hospital under section 9.5 of this chapter.

(h) For purposes of this section, "payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b)(1).

(i) For purposes of this section:

(1) the amount of a payable claim is an amount equal to the amount the hospital would have received under the state's fee-for-service Medicaid reimbursement principles for the hospital care for which the payable claim is submitted under IC 12-16-7.5 if the individual receiving the hospital care had been a Medicaid enrollee; and

(2) a payable hospital claim under IC 12-16-7.5 includes a payable claim under IC 12-16-7.5 for the hospital's care submitted by an individual or entity other than the hospital, to the extent permitted under the hospital care for the indigent program.

(j) The amount calculated under STEP FIVE of subsection (c) for a hospital with respect to a county may not exceed the total amount of the hospital's payable claims attributed to the county during the state fiscal year.

SECTION 6. IC 12-15-15-9.5, AS ADDED BY P.L.255-2003, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 9.5. (a) For purposes of this section and IC 12-16-7.5-4.5, a payable claim is attributed to a county if the payable claim is submitted to the division by a hospital licensed under IC 16-21-2 for payment under IC 12-16-7.5 for care provided by the hospital to an individual who qualifies for the hospital care for the indigent program under IC 12-16-3.5-1 or IC 12-16-3.5-2 and;

(1) who is a resident of the county;

(2) who is not a resident of the county and for whom the onset of the medical condition that necessitated the care occurred in the county; or

(3) whose residence cannot be determined by the division and for whom the onset of the medical condition that necessitated the care occurred in the county.

(b) For each state fiscal year ending after June 30, 2003, a hospital licensed under IC 16-21-2:

(1) that submits to the division during the state fiscal year a payable claim under IC 12-16-7.5; and

(2) whose payment under section 9(c) of this chapter was less than the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year;

is entitled to a payment under this section.

(c) ~~For a state fiscal year,~~ **Except as provided in section 9.8 of this chapter and** subject to section 9.6 of this chapter, **for a state fiscal year,** the office shall pay to a hospital referred to in subsection (b) an amount equal to the amount, based on information obtained from the division and the calculations and allocations made under IC 12-16-7.5-4.5, that the office determines for the hospital under STEP EIGHT of the following STEPS:

STEP ONE: Identify each county whose transfer of funds to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) for the state fiscal year was less than the total amount of all hospital payable claims attributed to the county and submitted to the division during the state fiscal year.

STEP TWO: For each county identified in STEP ONE, calculate the difference between the amount of funds of the county transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) and the total amount of all hospital payable claims attributed to the county and submitted to the division during the state fiscal year.

STEP THREE: Calculate the sum of the amounts calculated for the counties under STEP TWO.

STEP FOUR: Identify each hospital whose payment under section 9(c) of this chapter was less than the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year.

STEP FIVE: Calculate for each hospital identified in STEP FOUR the difference between the hospital's payment under section 9(c) of this chapter and the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year.

STEP SIX: Calculate the sum of the amounts calculated for each of the hospitals under STEP FIVE.

STEP SEVEN: For each hospital identified in STEP FOUR, calculate the hospital's percentage share of the amount calculated under STEP SIX. Each hospital's percentage share is based on the amount calculated for the hospital under STEP FIVE calculated as a percentage of the sum calculated under STEP SIX.

STEP EIGHT: For each hospital identified in STEP FOUR, multiply the hospital's percentage share calculated under STEP SEVEN by the sum calculated under STEP THREE. The amount calculated under this STEP for a hospital may not exceed the amount by which the hospital's total payable claims under IC 12-16-7.5 submitted during the state fiscal year exceeded the amount of the hospital's payment under section 9(c) of this chapter.

(d) A hospital's payment under subsection (c) is in the form of a Medicaid add-on payment. The amount of the hospital's add-on payment is subject to the availability of funding for the non-federal share of the payment under subsection (e). The office shall make the payments under subsection (c) before December 15 that next succeeds the end of the state fiscal year.

(e) The non-federal share of a payment to a hospital under subsection (c) is derived from funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) and not expended under section 9 of this chapter. To the extent possible, the funds shall be derived on a proportional basis from the funds transferred by each county identified in subsection (c), STEP ONE:

(1) to which at least one (1) payable claim submitted by the hospital to the division during the state fiscal year is attributed; and

(2) whose funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) were not completely expended under section 9 of this chapter.

The amount available to be derived from the remaining funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) to serve as the non-federal share of the payment to a hospital under subsection (c) is an amount that bears the same proportion to the total amount of funds transferred by all the counties identified in subsection (c), STEP ONE, that the amount calculated for the hospital under subsection (c), STEP FIVE, bears to the amount calculated under subsection (c), STEP SIX.

(f) Except as provided in subsection (g), the office may not make a payment under this section until the payments due under section 9 of this chapter for the state fiscal year have been made.

(g) If a hospital appeals a decision by the office regarding the hospital's payment under section 9 of this chapter, the office may make payments under this section before all payments due under section 9 of this chapter are made if:

(1) a delay in one (1) or more payments under section 9 of this chapter resulted from the appeal; and

(2) the office determines that making payments under this section while the appeal is pending will not unreasonably affect the interests of hospitals eligible for a payment under this section.

(h) Any funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) remaining after payments are made under this section shall be used as provided in IC 12-15-20-2(8)(D).

(i) For purposes of this section:

(1) "payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b);

(2) the amount of a payable claim is an amount equal to the amount the hospital would have received under the state's fee-for-service Medicaid reimbursement principles for the hospital care for which the payable claim is submitted under IC 12-16-7.5 if the individual receiving the hospital care had been a Medicaid enrollee; and

(3) a payable hospital claim under IC 12-16-7.5 includes a payable claim under IC 12-16-7.5 for the hospital's care submitted by an individual or entity other than the hospital, to the extent permitted under the hospital care for the indigent program.

SECTION 7. IC 12-15-15-9.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: **Sec. 9.8. (a) This section applies only if the office determines, based on information received from the United States Centers for Medicare and Medicaid Services, that a state Medicaid plan amendment implementing the payment methodology in:**

(1) section 9(c) of this chapter; or

(2) section 9.5(c) of this chapter;

will not be approved by the United States Centers for Medicare and Medicaid Services.

(b) The office may amend the state Medicaid plan to implement an alternative payment methodology to the payment methodology under section 9 of this chapter. The alternative payment methodology must provide each hospital that would have received a payment under section 9(c) of this chapter during a state fiscal year with an amount for the state fiscal year that is as equal as possible to the amount each hospital would have received under the payment methodology under section 9(c) of this chapter. A payment methodology implemented under this subsection is in place of the payment methodology under section 9(c) of this chapter.

(c) The office may amend the state Medicaid plan to implement an alternative payment methodology to the payment methodology under section 9.5 of this chapter. The alternative payment methodology must provide each hospital that would have received a payment under section 9.5(c) of this chapter during a state fiscal year with an amount for the state fiscal year that is as equal as possible to the amount each hospital would have received under the payment methodology under section 9.5(c) of this chapter. A payment methodology implemented under this subsection is in place of the payment methodology under section 9.5(c) of this chapter.

SECTION 8. IC 12-15-16-1, AS AMENDED BY P.L.113-2000, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 1. (a) A provider that is an acute care hospital licensed under IC 16-21, a state mental health institution under IC 12-24-1-3, or a private psychiatric institution licensed under IC 12-25 is a disproportionate share provider if the provider meets either of the following conditions:

(1) The provider's Medicaid inpatient utilization rate is at least one (1) standard deviation above the mean Medicaid inpatient utilization rate for providers receiving Medicaid payments in Indiana. However, the Medicaid inpatient utilization rate of providers whose low income utilization rate exceeds twenty-five percent (25%) must be excluded in calculating the statewide mean Medicaid inpatient utilization rate.

(2) The provider's low income utilization rate exceeds twenty-five percent (25%).

(b) An acute care hospital licensed under 16-21 is a municipal disproportionate share provider if the hospital:

(1) has a Medicaid utilization rate greater than one percent (1%); and

(2) is established and operated under IC 16-22-2 or IC 16-23.

(c) A community mental health center that:

(1) is identified in IC 12-29-2-1;

(2) receives funding under:

(A) IC 12-29-1-7(b) **before January 1, 2004; or**

(B) IC 12-29-2-20(c) after December 31, 2003;

or from other county sources; and

(3) provides inpatient services to Medicaid patients;

is a community mental health center disproportionate share provider if the community mental health center's Medicaid inpatient utilization rate is greater than one percent (1%).

(d) A disproportionate share provider under IC 12-15-17 must have at least two (2) obstetricians who have staff privileges and who have agreed to provide obstetric services under the Medicaid program. For a hospital located in a rural area (as defined in Section 1886 of the Social Security Act), an obstetrician includes a physician with staff privileges at the hospital who has agreed to perform nonemergency obstetric procedures. However, this obstetric service requirement does not apply to a provider whose inpatients are predominantly individuals less than eighteen (18) years of age or that did not offer nonemergency obstetric services as of December 21, 1987.

(e) The determination of a provider's status as a disproportionate share provider under this section shall be based on utilization and revenue data from the most recent year for which an audited cost report from the provider is on file with the office.

SECTION 9. IC 12-15-18-5.1, AS AMENDED BY P.L.66-2002, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 5.1. (a) For state fiscal years ending on or after June 30, 1998, the trustees and each municipal health and hospital corporation established under IC 16-22-8-6 are authorized to make intergovernmental transfers to the Medicaid indigent care trust fund in amounts to be determined jointly by the office and the trustees, and the office and each municipal health and hospital corporation.

(b) The treasurer of state shall annually transfer from

appropriations made for the division of mental health and addiction sufficient money to provide the state's share of payments under IC 12-15-16-6(c)(2).

(c) The office shall coordinate the transfers from the trustees and each municipal health and hospital corporation established under IC 16-22-8-6 so that the aggregate intergovernmental transfers, when combined with federal matching funds:

(1) produce payments to each hospital licensed under IC 16-21 that qualifies as a disproportionate share provider under IC 12-15-16-1(a); and

(2) both individually and in the aggregate do not exceed limits prescribed by the federal Centers for Medicare and Medicaid Services.

The trustees and a municipal health and hospital corporation are not required to make intergovernmental transfers under this section. The trustees and a municipal health and hospital corporation may make additional transfers to the Medicaid indigent care trust fund to the extent necessary to make additional payments from the Medicaid indigent care trust fund apply to a prior federal fiscal year as provided in IC 12-15-19-1(b).

(d) A municipal disproportionate share provider (as defined in IC 12-15-16-1) shall transfer to the Medicaid indigent care trust fund an amount determined jointly by the office and the municipal disproportionate share provider. A municipal disproportionate share provider is not required to make intergovernmental transfers under this section. A municipal disproportionate share provider may make additional transfers to the Medicaid indigent care trust fund to the extent necessary to make additional payments from the Medicaid indigent care trust fund apply to a prior federal fiscal year as provided in IC 12-15-19-1(b).

(e) A county making a payment under:

(1) IC 12-29-1-7(b) **before January 1, 2004; or**

(2) IC 12-29-2-20(c) after December 31, 2003;

or from other county sources to a community mental health center qualifying as a community mental health center disproportionate share provider shall certify that the payment represents expenditures that are eligible for federal financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist a county in making this certification.

SECTION 10. IC 12-29-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 1. (a) The county executive of a county may authorize the furnishing of financial assistance to ~~the following:~~

~~(1) A community mental health center that is located or will be located in the county.~~

~~(2)~~ a community mental retardation and other developmental disabilities center that is located or will be located in the county.

(b) Assistance authorized under this section shall be used for the following purposes:

(1) Constructing a center.

(2) Operating a center.

(c) Upon request of the county executive, the county fiscal body may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in subsection (b). The appropriation may not exceed the amount that could be collected from an annual tax levy of not more than three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) of taxable property within the county.

SECTION 11. IC 12-29-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 2. (a) If ~~a community mental health center or~~ a community mental retardation and other developmental disabilities center is organized to provide services to at least two (2) counties, the county executive of each county may authorize the furnishing of financial assistance for the purposes described in section 1(b) of this chapter.

(b) Upon the request of the county executive of the county, the county fiscal body of each county may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in section 1(b) of this chapter. The appropriation of each county may not exceed the amount that could be collected from an annual tax levy of three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) of taxable property within the county.

SECTION 12. IC 12-29-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 3. (a) The county executive of each county whose residents may receive services from ~~a community mental health center or~~ a community mental retardation and other developmental disabilities center may authorize the furnishing of a share of financial assistance for the purposes described in section 1(b) of this chapter if the following conditions are met:

(1) The facilities for the center are located in a state adjacent to Indiana.

(2) The center is organized to provide services to Indiana residents.

(b) Upon the request of the county executive of a county, the county fiscal body of the county may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in section 1(b) of this chapter. The appropriations of the county may not exceed the amount that could be collected from an annual tax levy of three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) of taxable property within the county.

SECTION 13. IC 12-29-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 4. (a) Bonds of a county may be issued for the construction and equipment or the improvement of a building to house ~~the following:~~

~~(1) A community mental health center.~~

~~(2)~~ a community mental retardation and other developmental disabilities center.

(b) If services are provided to at least two (2) counties:

(1) bonds of the counties involved may be issued to pay the proportionate cost of the project in the proportion determined and agreed upon by the fiscal bodies of the counties involved; or

(2) bonds of one (1) county may be issued and the remaining counties may annually appropriate to the county issuing the bonds amounts to be applied to the payment of the bonds and interest on the bonds in the proportion agreed upon by the county fiscal bodies of the counties involved.

SECTION 14. IC 12-29-1-7, AS AMENDED BY P.L.215-2001, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 7. (a) On the first Monday in October, the county auditor shall certify to:

~~(1) the division of mental health and addiction, for a community mental health center;~~

~~(2)~~ **(1)** the division of disability, aging, and rehabilitative services, for a community mental retardation and other developmental disabilities center; and

~~(3)~~ **(2)** the president of the board of directors of each center;

the amount of money that will be provided to the center under this chapter.

(b) The county payment to the center shall be paid by the county treasurer to the treasurer of each center's board of directors in the following manner:

(1) One-half (1/2) of the county payment to the center shall be made on the second Monday in July.

(2) One-half (1/2) of the county payment to the center shall be made on the second Monday in December.

~~A county making a payment under this subsection or from other county sources to a community mental health center that qualifies as a community mental health center disproportionate share provider under IC 12-15-16-1 shall certify that the payment represents expenditures eligible for financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist a county in making this certification.~~

(c) Payments by the county fiscal body

~~(1) must be in the amounts:~~

~~(A) determined by IC 12-29-2-1 through IC 12-29-2-6; and~~

~~(B) authorized by section 1 of this chapter; and~~

~~(2)~~ are in place of grants from agencies supported within the county solely by county tax money.

SECTION 15. IC 12-29-2-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 1.2. (a) The county executive of a county may authorize the furnishing of**

financial assistance for the purposes described in subsection (b) to a community mental health center that is located or will be located:

(1) in the county;

(2) anywhere in Indiana, if the community mental health center is organized to provide services to at least two (2) counties, including the county executive's county; or

(3) in an adjacent state, if the center is organized to provide services to Indiana residents, including residents in the county executive's county.

If a community mental health center is organized to serve more than one (1) county, upon request of the county executive, each county fiscal body may appropriate money annually from the county's general fund to provide financial assistance for the community mental health center.

(b) Assistance authorized under this section shall be used for the following purposes:

(1) Constructing a community mental health center.

(2) Operating a community mental health center.

(c) The appropriation from a county authorized under subsection (a) may not exceed the following:

(1) For 2004, the product of the amount determined under section 2(b)(1) of this chapter multiplied by one and five hundred four thousandths (1.504).

(2) For 2005 and each year thereafter, the product of the amount determined under section 2(b)(2) of this chapter for that year multiplied by one and five hundred four thousandths (1.504).

SECTION 16. IC 12-29-2-2, AS AMENDED BY P.L.1-2004, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 2. (a) ~~Subject to subsections (b), (c), and (d),~~ A county shall fund the operation of community mental health centers in ~~an~~ **the** amount ~~not less than the amount that would be raised by an annual tax rate of one and thirty-three hundredths cents ($0.0133) on each one hundred dollars ($100) of taxable property within the county,~~ **determined under subsection (b),** unless a lower tax ~~rate~~ **levy amount** will be adequate to fulfill the county's financial obligations under this chapter in any of the following situations:

(1) If the total population of the county is served by one (1) center.

(2) If the total population of the county is served by more than one (1) center.

(3) If the partial population of the county is served by one (1) center.

(4) If the partial population of the county is served by more than one (1) center.

~~(b) This subsection applies only to a property tax that is imposed in a county containing a consolidated city. The tax rate permitted under subsection (a) for taxes first due and payable after 1995 is the tax rate permitted under subsection (a) as adjusted under this subsection. For each year in which an annual adjustment of the assessed value of real property will take effect under IC 6-1.1-4-4.5 or a general reassessment of property will take effect, the department of local government finance shall compute the maximum rate permitted under subsection (a) as follows:~~

~~STEP ONE: Determine the maximum rate for the year preceding the year in which the annual adjustment or general reassessment takes effect.~~

~~STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment is effective.~~

~~STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.~~

~~STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the preceding year.~~

~~STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).~~

~~STEP SIX: Determine the greater of the following:~~

~~(A) Zero (0).~~

~~(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.~~

~~STEP SEVEN: Determine the quotient of:~~

~~(A) the STEP ONE tax rate; divided by~~

~~(B) one (1) plus the STEP SIX percentage increase.~~

~~This maximum rate is the maximum rate under this section until a new maximum rate is computed under this subsection for the next year in which an annual adjustment under IC 6-1.1-4-4.5 or a general reassessment of property will take effect.~~

~~(c) With respect to a county to which subsection (b) does not apply, the maximum tax rate permitted under subsection (a) for taxes first due and payable in calendar year 2004 and calendar year 2005 is the maximum tax rate that would have been determined under subsection (d) for taxes first due and payable in 2003 if subsection (d) had applied to the county for taxes first due and payable in 2003.~~

~~(d) This subsection applies only to a county to which subsection (b) does not apply. The tax rate permitted under subsection (a) for taxes first due and payable after calendar year 2005 is the tax rate permitted under subsection (c) as adjusted under this subsection. For each year in which an annual adjustment of the assessed value of real property will take effect under IC 6-1.1-4-4.5 or a general reassessment of property will take effect, the department of local government finance shall compute the maximum rate permitted under subsection (a) as follows:~~

~~STEP ONE: Determine the maximum rate for the year preceding the year in which the annual adjustment or general reassessment takes effect.~~

~~STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment is effective.~~

~~STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.~~

~~STEP FOUR: Compute separately, for each of the calendar years determined under STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the preceding year.~~

~~STEP FIVE: Divide the sum of the three (3) quotients computed under STEP FOUR by three (3).~~

~~STEP SIX: Determine the greater of the following:~~

~~(A) Zero (0).~~

~~(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.~~

~~STEP SEVEN: Determine the quotient of:~~

~~(A) the STEP ONE tax rate; divided by~~

~~(B) one (1) plus the STEP SIX percentage increase.~~

~~This maximum rate is the maximum rate under this section until a new maximum rate is computed under this subsection for the next year in which an annual adjustment under IC 6-1.1-4-4.5 or a general reassessment of property will take effect.~~

(b) The amount of funding under subsection (a) for taxes first due and payable in a calendar year is the following:

(1) For 2004, the amount is the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the amount that was levied within the county to comply with this section from property taxes first due and payable in 2002.

STEP TWO: Multiply the STEP ONE result by the county's assessed value growth quotient for the ensuing year 2003, as determined under IC 6-1.1-18.5-2.

STEP THREE: Multiply the STEP TWO result by the

county's assessed value growth quotient for the ensuing year 2004, as determined under IC 6-1.1-18.5-2.

(2) For 2005 and each year thereafter, the result equal to:

(A) the amount that was levied in the county to comply with this section from property taxes first due and payable in the calendar year immediately preceding the ensuing calendar year; multiplied by

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

SECTION 17. IC 12-29-2-13, AS AMENDED BY P.L.215-2001, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 13. (a) This section applies to ~~a~~ **Lake** County. ~~having a population of not less than four hundred thousand (400,000) but not more than seven hundred thousand (700,000).~~

(b) In addition to any other appropriation under this article, ~~a~~ **the** county annually may fund each center serving the county from the county's general fund in an amount not exceeding ~~the amount that would be raised by a tax rate of one cent ($0.01) on each one hundred dollars ($100) of taxable property within the county.~~ **the following:**

(1) For 2004, the product of the amount determined under section 2(b)(1) of this chapter multiplied by seven hundred fifty-two thousandths (0.752).

(2) For 2005 and each year thereafter, the product of the amount determined under section 2(b)(2) of this chapter for that year multiplied by seven hundred fifty-two thousandths (0.752).

(c) The receipts from the tax levied under this section shall be used for the leasing, purchasing, constructing, or operating of community residential facilities for the chronically mentally ill (as defined in IC 12-7-2-167).

(d) Money appropriated under this section must be:

(1) budgeted under IC 6-1.1-17; and

(2) included in the center's budget submitted to the division of mental health and addiction.

(e) Permission for a levy increase in excess of the levy limitations may be ordered under IC 6-1.1-18.5-15 only if the levy increase is approved by the division of mental health and addiction for a community mental health center.

SECTION 18. IC 12-29-2-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 17. (a) Bonds of a county may be issued for the construction and equipment or the improvement of a building to house a community mental health center.**

(b) If services are provided to at least two (2) counties:

(1) bonds of the counties involved may be issued to pay the proportionate cost of the project in the proportion determined and agreed upon by the fiscal bodies of the counties involved; or

(2) bonds of one (1) county may be issued and the remaining counties may annually appropriate to the county issuing the bonds amounts to be applied to the payment of the bonds and interest on the bonds in the proportion agreed upon by the county fiscal bodies of the counties involved.

SECTION 19. IC 12-29-2-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 18. All general Indiana statutes relating to the following apply to the issuance of county bonds under this chapter:**

(1) The filing of a petition requesting the issuance of bonds.

(2) The giving of notice of the following:

(A) The filing of the petition requesting the issuance of the bonds.

(B) The determination to issue bonds.

(C) A hearing on the appropriation of the proceeds of the bonds.

(3) The right of taxpayers to appear and be heard on the proposed appropriation.

(4) The approval of the appropriation by the department of local government finance.

(5) The right of taxpayers to remonstrate against the issuance of bonds.

SECTION 20. IC 12-29-2-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 19. If bonds are issued under this chapter:**

(1) the building that is constructed, equipped, or improved with proceeds of the bonds is:

(A) the property of the county issuing the bonds; or

(B) the joint property of the counties involved if the bonds are issued by at least two (2) counties; and

(2) the tax limitations in this chapter do not apply to the levy of taxes to pay the bonds and the interest on the bonds.

SECTION 21. IC 12-29-2-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 20. (a) On the first Monday in October, the county auditor shall certify to:**

(1) the division of mental health and addiction, for a community mental health center; and

(2) the president of the board of directors of each community mental health center;

the amount of money that will be provided to the community mental health center under this chapter.

(b) The county payment to the community mental health center shall be paid by the county treasurer to the treasurer of each community mental health center's board of directors in the following manner:

(1) One-half (1/2) of the county payment to the community mental health center shall be made on the second Monday in July.

(2) One-half (1/2) of the county payment to the community mental health center shall be made on the second Monday in December.

(c) A county making a payment under this section or from other county sources to a community mental health center that qualifies as a community mental health center disproportionate share provider under IC 12-15-16-1 shall certify that the payment represents expenditures eligible for financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist a county in making this certification.

(d) Payments by the county fiscal body:

(1) must be in the amounts:

(A) determined by sections 2 through 5 of this chapter; and

(B) authorized by sections 1.2 and 13 of this chapter; and

(2) are in place of grants from agencies supported within the county solely by county tax money.

SECTION 22. IC 16-21-6-7, AS AMENDED BY P.L.44-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 7. (a) The reports filed under section 3 of this chapter:

(1) may not contain information that personally identifies a patient or a consumer of health services; and

(2) must be open to public inspection.

(b) The state department shall provide copies of the reports filed under section 3 of this chapter to the public upon request, at the state department's actual cost.

(c) The following apply to information that is filed under section 6 of this chapter:

(1) Information filed with the state department's designated contractor:

(A) is confidential; and

(B) must be transferred by the contractor to the state department in a format determined by the state department.

(2) Information filed with the state department or transferred to the state department by the state department's designated contractor is not confidential, except that information that:

(A) personally identifies; or

(B) may be used to personally identify;

a patient or consumer may not be disclosed **to a third party other than to a hospital that has filed inpatient and outpatient discharge information.**

(d) An analysis completed by the state department of information

that is filed under section 6 of this chapter:

(1) may not contain information that personally identifies or may be used to personally identify a patient or consumer of health services, unless the information is determined by the state department to be necessary for a public health activity;

(2) must be open to public inspection; and

(3) must be provided to the public by the state department upon request at the state department's actual cost.

SECTION 23. IC 16-39-5-3, AS AMENDED BY P.L.44-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 3. (a) As used in this section,"association" refers to an Indiana hospital trade association founded in 1921.

(b) As used in this section, "data aggregation" means a combination of information obtained from the health records of a provider with information obtained from the health records of one (1) or more other providers to permit data analysis that relates to the health care operations of the providers.

(c) Except as provided in IC 16-39-4-5, the original health record of the patient is the property of the provider and as such may be used by the provider without specific written authorization for legitimate business purposes, including the following:

(1) Submission of claims for payment from third parties.

(2) Collection of accounts.

(3) Litigation defense.

(4) Quality assurance.

(5) Peer review.

(6) Scientific, statistical, and educational purposes.

(d) In use under subsection (c), the provider shall at all times protect the confidentiality of the health record and may disclose the identity of the patient only when disclosure is essential to the provider's business use or to quality assurance and peer review.

(e) A provider may disclose a health record to another provider or to a nonprofit medical research organization to be used in connection with a joint scientific, statistical, or educational project. Each party that receives information from a health record in connection with the joint project shall protect the confidentiality of the health record and may not disclose the patient's identity except as allowed under this article.

(f) A provider may disclose a health record or information obtained from a health record to the association for use in connection with a ~~voluntary~~ data aggregation project undertaken by the association. However, the provider may disclose the identity of a patient to the association only when the disclosure is essential to the project. The association may disclose the information it receives from a provider under this subsection to the state department to be used in connection with a ~~voluntary~~ public health activity **or data aggregation of inpatient and outpatient discharge information submitted under IC 16-21-6-6.** The information disclosed by:

(1) a provider to the association; or

(2) the association to the state department;

under this subsection is confidential.

(g) Information contained in final results obtained by the state department for a ~~voluntary~~ public health activity that:

(1) is based on information disclosed under subsection (f); and

(2) identifies or could be used to determine the identity of a patient;

is confidential. All other information contained in the final results is not confidential.

(h) Information that is:

(1) advisory or deliberative material of a speculative nature; or

(2) an expression of opinion;

including preliminary reports produced in connection with a ~~voluntary~~ public health activity using information disclosed under subsection (f), is confidential and may only be disclosed by the state department to the association and to the provider who disclosed the information to the association.

(i) The association shall, upon the request of a provider that contracts with the association to perform data aggregation, make available information contained in the final results of data aggregation activities performed by the association **in compliance with subsection (f).**

(j) A person who recklessly violates or fails to comply with subsections (e) through (h) commits a Class C infraction. Each day a violation continues constitutes a separate offense.

(k) This chapter does not do any of the following:

(1) Repeal, modify, or amend any statute requiring or authorizing the disclosure of information about any person.

(2) Prevent disclosure or confirmation of information about patients involved in incidents that are reported or required to be reported to governmental agencies and not required to be kept confidential by the governmental agencies.

SECTION 24. IC 16-39-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 3. (a) A provider may collect a charge of twenty-five cents ($0.25) per page for making and providing copies of medical records. If the provider collects a ~~retrieval~~ **labor** charge under subsection (b), the provider may not charge for making and providing copies of the first ten (10) pages of a medical record under this subsection.

(b) A provider may collect a fifteen dollar ($15) ~~retrieval~~ **labor** charge in addition to the per page charge collected under subsection (a).

(c) A provider may collect actual postage costs in addition to the charges collected under subsections (a) and (b).

(d) If the person requesting the copies requests that the copies be provided within two (2) working days, and the provider provides the copies within two (2) working days, the provider may collect a fee of ten dollars ($10) in addition to the charges collected under subsections (a) through (c).

SECTION 25. IC 12-29-2-6 IS REPEALED [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)].

SECTION 26. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)] **(a) IC 12-29-1 and IC 12-29-2, both as amended by this act, apply to property taxes first due and payable after December 31, 2003.**

(b) If the department of local government finance determines that compliance with this act would cause an unreasonable delay in the certification of budgets, tax rates, and tax levies in a county, the department of local government finance may certify budgets, tax rates, and tax levies for the county under IC 6-1.1-18-12, IC 12-29-1, and IC 12-29-2 as if this act had not been passed. However, if the department of local government finance takes this action, the affected county and the department of local government finance shall provide for an additional shortfall property tax levy and an additional budgeted amount in 2005 to replace the revenue lost in 2004 to community mental health centers as a result of certifying budgets, tax rates, and tax levies for the county under IC 6-1.1-18-12, IC 12-29-1, and IC 12-29-2 as if this act had not been passed.

(c) The amount of the shortfall levy under subsection (b) shall be treated as an addition to the amount allowed in 2005 under IC 12-29-2, as amended by this act. The ad valorem property tax levy limits imposed by IC 12-29-2, as amended by this act, do not apply to ad valorem property taxes imposed under subsection (b). The shortfall levy imposed under this SECTION may not be considered in computing ad valorem property tax levies under IC 12-29-2, as amended by this act, for property taxes first due and payable after 2005.

SECTION 27. P.L.224-2003, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: SECTION 70. (a) As used in this SECTION, ~~"high Medicaid utilization nursing facility" means the smallest number of those nursing facilities with the greatest number of Medicaid patient days for which it is necessary to assess a lower quality assessment to satisfy the statistical test set forth in 42 CFR 433.68(c)(2)(ii).~~ **"health facility" refers to a health facility is licensed under IC 16-28 as a comprehensive care facility.**

(b) As used in this SECTION, "nursing facility" means a health facility that is

~~(1) licensed under IC 16-28 as a comprehensive care facility; and~~

~~(2)~~ certified for participation in the federal Medicaid program under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.).

(c) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(d) As used in this SECTION, "total annual revenue" does not include revenue from Medicare services provided under Title XVIII of the federal Social Security Act (42 U.S.C. 1395 et seq.).

(e) Effective August 1, 2003, the office shall collect a quality assessment from each nursing facility that has:

(1) a Medicaid utilization rate of at least twenty-five percent (25%); and

(2) at least seven hundred thousand dollars ($700,000) in annual Medicaid revenue, adjusted annually by the average annual percentage increase in Medicaid rates.

(f) **If the United States Centers for Medicare and Medicaid Services determines not to approve payments under this SECTION using the methodology described in subsection (e), the office shall revise the state plan amendment and waiver request submitted under subsection (l) as soon as possible to demonstrate compliance with 42 CFR 433.68(e)(2)(ii). In amending the state plan amendment and waiver request under this subsection, the office shall collect a quality assessment effective August 1, 2003, from each health facility except the following:**

(1) A continuing care retirement community.

(2) A health facility that only receives revenue from Medicare services provided under 42 USC 1395 et seq.

(3) A health facility that has less than seven hundred fifty thousand dollars ($750,000) in total annual revenue, adjusted annually by the average annual percentage increase in Medicaid rates.

(4) The Indiana Veterans' Home.

Any revision to the state plan amendment or waiver request under this subsection is subject to and must comply with the provisions of this SECTION.

(g) If the United States Centers for Medicare and Medicaid Services determines not to approve payments under this SECTION using the methodology described in subsections (e) and (f), the office shall revise the state plan amendment and waiver request submitted under subsection (l) as soon as possible to demonstrate compliance with 42 CFR 433.68(e)(2)(ii) and to collect a quality assessment from health facilities effective August 1, 2003. In amending the state plan amendment and waiver request under this subsection, the office may modify the parameters described in subsection (f)(1) through (f)(4). However, if the office determines a need to modify the parameters described in subsection (f)(1) through (f)(4), the office shall modify the parameters in order to achieve a methodology and result as similar as possible to the methodology and result described in subsection (f). Any revision of the state plan amendment and waiver request under this subsection is subject to and must comply with the provisions of this SECTION.

(h) The money collected from the quality assessment may be used only to pay the state's share of the costs for Medicaid services provided under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.) as follows:

(1) Twenty percent (20%) as determined by the office.

(2) Eighty percent (80%) to nursing facilities.

~~(g)~~ **(i)** The office may not begin collection of the quality assessment set under this SECTION before the office calculates and begins paying enhanced reimbursement rates set forth in this SECTION.

~~(h)~~ **(j)** If federal financial participation becomes unavailable to match money collected from the quality assessments for the purpose of enhancing reimbursement to nursing facilities for Medicaid services provided under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.), the office shall cease collection of the quality assessment under the SECTION.

~~(i)~~ **(k)** The office shall adopt rules under IC 4-22-2 to implement this act.

~~(j)~~ **(l)** Not later than July 1, 2003, the office shall do the following:

(1) Request the United States Department of Health and Human Services under 42 CFR 433.72 to approve waivers of 42 CFR 433.68(c) and 42 CFR 433.68(d) by demonstrating compliance with 42 CFR 433.68(e)(2)(ii).

(2) Submit any state Medicaid plan amendments to the United States Department of Health and Human Services that are necessary to implement this SECTION.

~~(k)~~ **(m)** After approval of the waivers and state Medicaid plan amendment applied for under subsection ~~(j),~~ **(l),** the office shall implement this SECTION effective July 1, 2003.

~~(l)~~ **(n)** The select joint commission on Medicaid oversight, established by IC 2-5-26-3, shall review the implementation of this SECTION. The office may not make any change to the reimbursement for nursing facilities unless the select joint commission on Medicaid oversight recommends the reimbursement change.

~~(m)~~ **(o)** A nursing facility may not charge the nursing facility's residents for the amount of the quality assessment that the nursing facility pays under this SECTION.

~~(n)~~ **(p) The office may withdraw a state plan amendment under subsection (e), (f), or (g) only if the office determines that failure to withdraw the state plan amendment will result in the expenditure of state funds not funded by the quality assessment.**

(q) This SECTION expires August 1, ~~2004.~~ **2005.**

SECTION 28. [EFFECTIVE JULY 1, 2004] **(a) In addition to the duties specified under IC 2-5-26, the select joint commission on Medicaid oversight established by IC 2-5-26-3 shall, to the extent the commission determines is feasible after consultation with the office of Medicaid policy and planning established by IC 12-8-6-1, study the following effects of the repeal of continuous eligibility for children under the Indiana Medicaid program and the children's health insurance program established under IC 12-17.6-2:**

(1) Effects on government, including the following:

(A) Costs to Medicaid and the division of family and children established by IC 12-13-1-1 due to more frequent recertification requirements.

(B) Loss of revenue from federal matching funds that could not be obtained because of the repeal of continuous eligibility.

(2) Effects on the economy, including the following:

(A) Indirect cost shifting to providers due to increased charity care because recipients have lapses in eligibility.

(B) Increased burdens on township assistance (poor relief).

(3) Effects on children, including the following:

(A) Increases in the level of uninsured children in Indiana.

(B) Decreases in wellness and the effects on the educational abilities of sicker children.

(4) Effects on families, including the following:

(A) Effects on family income due to the burden of sicker children.

(B) Effects on the ability of parents to maintain stable employment due to sicker children or more burdensome recertification procedures.

(b) The select joint commission on Medicaid oversight shall submit to the legislative council before November 1, 2004, a report of its findings and recommendations concerning the study under subsection (a). The report must be submitted in an electronic format under IC 5-14-6.

(c) This SECTION expires January 1, 2005.

SECTION 29. [EFFECTIVE UPON PASSAGE] **(a) The state budget committee shall review the disproportionate share funding allocations for mental health institutions and community mental health centers for state fiscal year 2004-2005.**

(b) As part of the budget build up process for the 2005 session of the general assembly, the state budget committee shall make recommendations to the general assembly concerning disproportionate share funding for mental health institutions and community mental health centers for the 2005-2007 biennial budget.

(c) This SECTION expires December 31, 2005.

SECTION 30. **An emergency is declared for this act.**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1320 as reprinted February 24, 2004.)

HASLER	MILLER
SCHOLER	SIMPSON
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1401–1; filed March 4, 2004, at 1:53 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 1401 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 2-5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 1.5. Public Officers Compensation Advisory Commission

Sec. 1. As used in this chapter, "commission" refers to the public officers compensation advisory commission established by section 6 of this chapter.

Sec. 2. As used in this chapter, "growth rate" refers to the rate of change in Indiana nonfarm income determined by the Bureau of Economic Analysis of the United States Department of Commerce.

Sec. 3. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

Sec. 4. As used in this chapter, "public employee" refers to any of the following:

(1) An employee of the state.
(2) An employee of a political subdivision.
(3) An employee of any other entity whose salary is paid in any part from funds derived from taxes imposed by the state or a political subdivision.

Sec. 5. As used in this chapter, "public officer" refers to any of the following:

(1) The governor.
(2) The lieutenant governor.
(3) The secretary of state.
(4) The auditor of state.
(5) The treasurer of state.
(6) The attorney general.
(7) The clerk of the supreme court.
(8) The state superintendent of public instruction.
(9) A justice of the supreme court of Indiana.
(10) A judge of the court of appeals of Indiana.
(11) A judge of the Indiana tax court.
(12) A judge of a circuit, superior, probate, or county court.
(13) A member of the general assembly.

Sec. 6. There is established the public officers compensation advisory commission.

Sec. 7. (a) The commission consists of the following members:

(1) Two (2) members appointed by the speaker of the house of representatives. The members appointed under this subdivision may not be members of the same political party.
(2) Two (2) members appointed by the president pro tempore of the senate. The members appointed under this subdivision may not be members of the same political party.
(3) Two (2) members appointed by the governor. The members appointed under this subdivision may not be members of the same political party.
(4) Two (2) members appointed by the chief justice of the supreme court of Indiana. The members appointed under this subdivision may not be members of the same political party.
(5) One (1) member appointed by the chief judge of the court of appeals of Indiana.

(b) The following may not be a commission member:

(1) A public officer.
(2) A public employee.
(3) An individual who has a pecuniary interest in the salary of a public officer. For purposes of this subdivision, an individual has a pecuniary interest in the salary of a public officer if an increase in the salary of a public officer will result in an ascertainable increase in the income or net worth of the individual.

Sec. 8. (a) The term of a commission member begins on the later of the following:

(1) July 1 after the member is appointed.
(2) The day the member accepts the member's appointment.

(b) The term of a commission member expires on July 1 of the fourth year after the year the member's term begins.

(c) A member may be reappointed to serve a new term.

Sec. 9. (a) If there is a vacancy on the commission, the public officer who appointed the member whose position is vacant shall appoint an individual to fill the vacancy.

(b) The member appointed under this section shall fill the vacancy for the remainder of the unexpired term.

Sec. 10. (a) Before July 1 of each odd numbered year, the chairman of the legislative council shall appoint one (1) member to be chair of the commission.

(b) The member appointed as chair of the commission serves as chair beginning July 1 after appointment.

(c) A member of the commission may be reappointed as chair of the commission.

Sec. 11. Five (5) commission members constitute a quorum. The affirmative votes of at least five (5) commission members are necessary for the commission to take official action other than to adjourn or to meet to hear reports or testimony.

Sec. 12. The commission shall meet at the call of the chair and at other times as the commission considers necessary.

Sec. 13. Each member of the commission is entitled to the following:

(1) The salary per diem provided under IC 4-10-11-2.1(b).
(2) Reimbursement for traveling expenses as provided under IC 4-13-1-4.
(3) Other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 14. The legislative services agency shall provide administrative support for the commission. At the request of the legislative services agency, the state personnel department or the Indiana judicial center established by IC 33-38-9-4 shall assign staff to provide research and other support to assist the legislative services agency in providing administrative support to the commission.

Sec. 15. The legislative services agency may contract with consultants on behalf of the commission as the commission considers necessary to implement this chapter.

Sec. 16. Except as otherwise provided by this chapter, the commission is subject to the rules of the legislative council.

Sec. 17. The commission shall make reports to the general assembly as required by this chapter or by the legislative council. The reports to the legislative council must be in an electronic format under IC 5-14-6.

Sec. 18. The commission shall meet at least one (1) time not later than July 1 of each even-numbered year to do the following:

(1) For each public officer listed in section 5 of this chapter, determine the most recent year that the public officer received a salary increase.
(2) Receive information relating to the salaries of public officers.
(3) Consider recommendations for suitable salaries for public officers.
(4) Take testimony relating to the salaries of public officers.

Sec. 19. (a) Not later than September 1 of each even-numbered year, the commission shall make written recommendations to the:

(1) legislative council; and
(2) budget committee;

concerning suitable salaries for public officers. The recommendations to the legislative council must be in an electronic format under IC 5-14-6.

(b) When making recommendations, the commission shall make a separate recommendation, including a recommendation for no adjustment of salary, for each separate public officer listed in section 5 of this chapter.

(c) The commission may not recommend an increase in the salary of a public officer to an amount that exceeds the salary the

public officer would receive if the salary of the public officer increased each year since the most recent year the public officer received a salary increase by the growth rate for each respective year.

Sec. 20. For purposes of this chapter, a health care adjustment under IC 33-38-5-8.2 is not considered part of the salary of a public officer.

Sec. 21. A commission recommendation does not take effect unless enacted by the general assembly.

Sec. 22. There is annually appropriated to the legislative services agency from the state general fund money necessary for the operation of the commission.

Sec. 23. Notwithstanding IC 1-1-1-8, the provisions of this chapter are not severable.

SECTION 2. IC 5-10.2-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2004]: Sec. 3. (a) Except as provided in subsection ~~(c),~~ **(f),** in computing the retirement benefit for a nonteacher member, "average of the annual compensation" means the average annual compensation calculated using the twenty (20) calendar quarters of service in a position covered by the retirement fund before retirement in which the member's annual compensation was the highest. However, in order for a quarter to be included in the twenty (20) calendar quarters, the nonteacher member must have performed service throughout the calendar quarter. All twenty (20) calendar quarters do not have to be continuous but they must be in groups of four (4) consecutive calendar quarters. The same calendar quarter may not be included in two (2) different groups.

(b) **This subsection does not apply to a teacher member described in subsection (c).** In computing the retirement benefit for a teacher member, "average of the annual compensation" means the average annual compensation for the five (5) years of service before retirement in which the member's annual compensation was highest. In order for a year to be included in the five (5) years, the teacher member must have received for the year credit under IC 21-6.1-4-2 for at least one-half (1/2) year of service. The five (5) years do not have to be continuous.

(c) **This subsection applies to a member of the Indiana state teachers' retirement fund who serves in an elected position for which the member takes an unpaid leave of absence. In computing the retirement benefit for a teacher member described in this subsection for years of service to which IC 21-6.1-5-7.5 does not apply, "average of the annual compensation" means the annual compensation for the one (1) year of service before retirement in which the member's annual compensation was highest. In order for a year to be used, the teacher member must have received for the year credit under IC 21-6.1-4-2 for at least one-half (1/2) year of service.**

(**d**) Subject to IC 5-10.2-2-1.5 "annual compensation" means:

(1) the basic salary earned by and paid to the member plus the amount that would have been part of that salary but for:

~~(1)~~ **(A)** the state's, a school corporation's, a participating political subdivision's, or a state educational institution's (as defined in IC 20-12-0.5-1) paying the member's contribution to the fund for the member; or

~~(2)~~ **(B)** the member's salary reduction agreement established under Section 125, 403(b), or 457 of the Internal Revenue Code; **and**

(2) in the case of a member described in subsection (c) and for years of service to which IC 21-6.1-5-7.5 does not apply, the basic salary that was not paid during the year but would have been paid to the member during the year under the member's employment contracts if the member had not taken any unpaid leave of absence to serve in an elected position.

The portion of a back pay award or a similar award that the board determines is compensation under an agreement or under a judicial or an administrative proceeding shall be allocated by the board among the years the member earned or should have earned the compensation. Only that portion of the award allocated to the year the award is made is considered to have been earned during the year the award was made. Interest on an award is not considered annual compensation for any year.

~~(d)~~ **(e)** Compensation of no more than two thousand dollars ($2,000) received from the employer in contemplation of the member's retirement, including severance pay, termination pay, retirement bonus, or commutation of unused sick leave or personal leave, may be included in the total annual compensation from which the average of the annual compensation is determined, if it is received:

(1) before the member ceases service; or

(2) within twelve (12) months after the member ceases service.

~~(e)~~ **(f)** This section applies to a member of the general assembly:

(1) who is a participant in the legislators' retirement system established under IC 2-3.5;

(2) who is also a member of the public employees' retirement fund or the state teachers' retirement fund; and

(3) whose years of service in the general assembly may not be considered in determining the average of the annual compensation under this section, as provided in IC 2-3.5-1-2(b)(2) or IC 2-3.5-3-1(c).

The board shall use the board's actuarial salary increase assumption to project the salary for any previous year needed to determine the average of the annual compensation.

SECTION 3. IC 33-34-8-1, AS ADDED BY SEA 263-2004, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The following fees and costs apply to cases in the small claims court:

(1) A township docket fee of five dollars ($5) plus forty-five percent (45%) of the infraction or ordinance violation costs fee under IC 33-37-4-2.

(2) The bailiff's service of process by registered or certified mail fee of thirteen dollars ($13) for each service.

(3) The cost for the personal service of process by the bailiff or other process server of thirteen dollars ($13) for each service.

(4) Witness fees, if any, in the amount provided by IC 33-37-10-3 to be taxed and charged in the circuit court.

(5) A redocketing fee, if any, of five dollars ($5).

(6) A document storage fee under IC 33-37-5-20.

(7) An automated record keeping fee under IC 33-37-5-21.

(8) A late fee, if any, under IC 33-37-5-22.

(9) A judicial insurance adjustment fee under IC 33-37-5-25.

The docket fee and the cost for the initial service of process shall be paid at the institution of a case. The cost of service after the initial service shall be assessed and paid after service has been made. The cost of witness fees shall be paid before the witnesses are called.

(b) If the amount of the township docket fee computed under subsection (a)(1) is not equal to a whole number, the amount shall be rounded to the next highest whole number.

SECTION 4. IC 33-37-4-1, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars ($120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A marijuana eradication program fee (IC 33-37-5-7).

(3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).

(4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).

(5) A drug abuse, prosecution, interdiction, and correction fee (IC 33-37-5-9).

(6) An alcohol and drug countermeasures fee (IC 33-37-5-10).

(7) A child abuse prevention fee (IC 33-37-5-12).

(8) A domestic violence prevention and treatment fee (IC 33-37-5-13).

(9) A highway work zone fee (IC 33-37-5-14).

(10) A deferred prosecution fee (IC 33-37-5-17).

(11) A document storage fee (IC 33-37-5-20).

(12) An automated record keeping fee (IC 33-37-5-21).

(13) A late payment fee (IC 33-37-5-22).

(14) A sexual assault victims assistance fee (IC 33-37-5-23).
(15) A judicial insurance adjustment fee under IC 33-37-5-25.

(c) Instead of the criminal costs fee prescribed by this section, the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-39-1-8 requires payment of those fees by the accused person. The pretrial diversion program fee is:

(1) an initial user's fee of fifty dollars ($50); and
(2) a monthly user's fee of ten dollars ($10) for each month that the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, not later than thirty (30) days after the fees are collected:

(1) The pretrial diversion fee.
(2) The marijuana eradication program fee.
(3) The alcohol and drug services program user fee.
(4) The law enforcement continuing education program fee.

The auditor or fiscal officer shall deposit fees transferred under this subsection in the appropriate user fee fund established under IC 33-37-8.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

(1) The clerk shall apply the partial payment to general court costs.
(2) If there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the remainder of the partial payment for deposit in the appropriate county user fee fund.
(3) If there is money remaining after distribution under subdivision (2), the clerk shall distribute the remainder of the partial payment for deposit in the state user fee fund.
(4) If there is money remaining after distribution under subdivision (3), the clerk shall distribute the remainder of the partial payment to any other applicable user fee fund.
(5) If there is money remaining after distribution under subdivision (4), the clerk shall apply the remainder of the partial payment to any outstanding fines owed by the defendant.

SECTION 5. IC 33-37-4-2, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

(1) for a violation constituting an infraction; or
(2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);

the clerk shall collect from the defendant an infraction or ordinance violation costs fee of seventy dollars ($70).

(b) In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the defendant the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
(2) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
(3) A law enforcement continuing education program fee IC 33-37-5-8(c)).
(4) An alcohol and drug countermeasures fee (IC 33-37-5-10).
(5) A highway work zone fee (IC 33-37-5-14).
(6) A deferred prosecution fee (IC 33-37-5-17).
(7) A jury fee (IC 33-19-6-17). (IC 33-37-5-19).
(8) A document storage fee (IC 33-37-5-20).
(9) An automated record keeping fee (IC 33-37-5-21).
(10) A late payment fee (IC 33-37-5-22).
(11) A judicial insurance adjustment fee under IC 33-37-5-25.

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, not later than thirty (30) days after the fees are collected:

(1) The alcohol and drug services program user fee (IC 33-37-5-8(b)).
(2) The law enforcement continuing education program fee (IC 33-37-5-8(c)).
(3) The deferral program fee (subsection e).

The auditor or fiscal officer shall deposit the fees in the user fee fund established under IC 33-37-8.

(d) The defendant is not liable for any ordinance violation costs fee in an action if all the following apply:

(1) The defendant was charged with an ordinance violation subject to IC 33-36.
(2) The defendant denied the violation under IC 33-36-3.
(3) Proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal).
(4) The defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

(1) an initial user's fee not to exceed fifty-two dollars ($52); and
(2) a monthly user's fee not to exceed ten dollars ($10) for each month the person remains in the deferral program.

(f) The fees prescribed by this section are costs for purposes of IC 34-28-5-4 and may be collected from a defendant against whom judgment is entered. Any penalty assessed is in addition to costs.

SECTION 6. IC 33-37-4-3, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The clerk shall collect a juvenile costs fee of one hundred twenty dollars ($120) for each action filed under any of the following:

(1) IC 31-34 (children in need of services).
(2) IC 31-37 (delinquent children).
(3) IC 31-14 (paternity).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
(2) A marijuana eradication program fee (IC 33-37-5-7).
(3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
(4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
(5) An alcohol and drug countermeasures fee (IC 33-37-5-10).
(6) A document storage fee (IC 33-37-5-20).
(7) An automated record keeping fee (IC 33-37-5-21).
(8) A late payment fee (IC 33-37-5-22).
(9) A judicial insurance adjustment fee under IC 33-37-5-25.

(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees not later than thirty (30) days after they are collected:

(1) The marijuana eradication program fee (IC 33-37-5-7).
(2) The alcohol and drug services program user fee (IC 33-37-5-8(b)).
(3) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

The auditor or fiscal officer shall deposit the fees in the appropriate user fee fund established under IC 33-37-8.

SECTION 7. IC 33-37-4-4, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) The clerk shall collect a civil costs fee of one hundred dollars ($100) from a party filing a civil action. This subsection does not apply to the following civil actions:

(1) Proceedings to enforce a statute defining an infraction under IC 34-28-5 (or IC 34-4-32 before its repeal).
(2) Proceedings to enforce an ordinance under IC 34-28-5 (or IC 34-4-32 before its repeal).
(3) Proceedings in juvenile court under IC 31-34 or IC 31-37.
(4) Proceedings in paternity under IC 31-14.
(5) Proceedings in small claims court under IC 33-34.
(6) Proceedings in actions described in section 7 of this chapter.

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A support and maintenance fee (IC 33-37-5-6).

(3) A document storage fee (IC 33-37-5-20).

(4) An automated record keeping fee (IC 33-37-5-21).

(5) A judicial insurance adjustment fee under IC 33-37-5-25.

SECTION 8. IC 33-37-4-5, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) For each small claims action the clerk shall collect from the party filing the action a small claims costs fee of thirty-five dollars ($35). However, a clerk may not collect a small claims costs fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

(4) A judicial insurance adjustment fee under IC 33-37-5-25.

(c) This section expires July 1, 2005.

SECTION 9. IC 33-37-4-6, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) For each small claims action, the clerk shall collect from the party filing the action both of the following fees:

(1) A small claims costs fee of thirty-five dollars ($35).

(2) A small claims service fee of five dollars ($5) for each defendant named or added in the small claims action.

However, a clerk may not collect a small claims costs fee or small claims service fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee and small claims service fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

(4) A judicial insurance adjustment fee under IC 33-37-5-25.

(c) This section applies after June 30, 2005.

SECTION 10. IC 33-37-4-7, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) Except as provided under subsection (c), the clerk shall collect from the party filing the action a probate costs fee of one hundred twenty dollars ($120) for each action filed under any of the following:

(1) IC 6-4.1-5 (determination of inheritance tax).

(2) IC 29 (probate).

(3) IC 30 (trusts and fiduciaries).

(b) In addition to the probate costs fee collected under subsection (a), the clerk shall collect from the party filing the action the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

(4) A judicial insurance adjustment fee under IC 33-37-5-25.

(c) A clerk may not collect a court costs fee for the filing of the following exempted actions:

(1) Petition to open a safety deposit box.

(2) Filing an inheritance tax return, unless proceedings other than the court's approval of the return become necessary.

(3) Offering a will for probate under IC 29-1-7, unless proceedings other than admitting the will to probate become necessary.

SECTION 11. IC 33-37-5-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 25. (a) This subsection does not apply to the following:**

(1) A criminal proceeding.

(2) A proceeding for an infraction violation.

(3) A proceeding for an ordinance violation.

In each action filed in a court described in IC 33-19-1-1, the clerk shall collect a judicial insurance adjustment fee of one dollar ($1).

(b) In each action in which a person is:

(1) convicted of an offense;

(2) required to pay a pretrial diversion fee;

(3) found to have violated an infraction; or

(4) found to have violated an ordinance;

the clerk shall collect a judicial insurance adjustment fee of one dollar ($1).

SECTION 12. IC 33-37-7-1, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The clerk of a circuit court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%)

of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

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

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance fund established by IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

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

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

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

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

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

~~(h)~~ **(i)** This section expires July 1, 2005.

SECTION 13. IC 33-37-7-2, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance fund established by IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

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

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

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

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

(h) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(2) for deposit in the county general fund.

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

~~(i)~~ **(j)** This section applies after June 30, 2005.

SECTION 14. IC 33-37-7-7, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

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

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

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

(4) IC 33-37-4-5 (small claims costs fees).

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

(b) The city or town fiscal officer shall distribute monthly to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

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

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

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

(4) IC 33-37-4-5 (small claims costs fees).

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

(c) The city or town fiscal officer shall retain twenty-five percent

(25%) as the city or town share of the fees collected under the following:

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

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

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

(4) IC 33-37-4-5 (small claims costs fees).

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

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established by IC 33-37-9 the following:

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

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

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

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

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

(e) The clerk of a city or town court shall distribute monthly to the county auditor the following:

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

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

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

(f) The clerk of a city or town court shall monthly distribute to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

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

~~(g)~~ **(h)** This section expires July 1, 2005.

SECTION 15. IC 33-37-7-8, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

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

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

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

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

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

(b) The city or town fiscal officer shall distribute monthly to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

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

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

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

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

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

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

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

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

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

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

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

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

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

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

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

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

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

(e) The clerk of a city or town court shall distribute monthly to the county auditor the following:

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

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

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

(f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

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

~~(g)~~ **(i)** This section applies after June 30, 2005.

SECTION 16. IC 33-38-5-8.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2004]: **Sec. 8.2. (a) As used in this section, "account" refers to the judicial branch health care adjustment account established by subsection (d).**

(b) As used in this section, "employees of the judicial branch" includes the following:

(1) Each judge described in section 6 of this chapter.

(2) Each magistrate:

(A) described in section 7 of this chapter; and

(B) receiving a salary under IC 33-23-5-10.

(3) Each justice and judge described in section 8 of this chapter.

(4) The judge described in IC 33-26.

(5) A prosecuting attorney whose entire salary is paid by the state.

(c) Employees of the judicial branch are entitled to a health care adjustment in any year that the governor provides a health care adjustment to employees of the executive branch.

(d) The judicial branch insurance adjustment account within the state general fund is established for the purpose of providing health care adjustments under subsection (c). The account shall be administered by the supreme court.

(e) The expenses of administering the account shall be paid from money in the account.

(f) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

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

(h) Money in the account is annually appropriated to the supreme court for the purpose of this section.

(i) If the funds appropriated for compliance with this section are insufficient, there is annually appropriated from the state general fund sufficient funds to carry out the purpose of this section.

SECTION 17. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 2-5-1.5, as added by this act, apply throughout this SECTION.**

(b) The appointing authorities of the commission members shall appoint the commission members, subject to IC 2-5-1.5, as added by this act, before July 1, 2004.

(c) The chairman of the legislative council shall appoint the commission chair, subject to IC 2-5-1.5, as added by this act, before July 1, 2004.

(d) Notwithstanding IC 2-5-1.5-18, as added by this act, the commission shall meet at least one (1) time not later than August 1, 2004, to carry out the functions listed in IC 2-5-1.5-18, as added by this act.

(e) Not later than September 1, 2004, the commission shall make written recommendations to the:

(1) legislative council; and

(2) budget committee;

concerning suitable salaries for public officers. The recommendations to the legislative council must be in an electronic format under IC 5-14-6.

(f) For purposes of this SECTION, the health care adjustment provided by SECTION 19 of this act is not considered part of the salary of a public officer.

(g) Except as provided in this SECTION, IC 2-5-1.5, as added by this act applies to the commission's proceedings under this SECTION.

(h) The SECTION expires July 1, 2005.

SECTION 18. [EFFECTIVE JUNE 1, 2004] **IC 5-10.2-4-3, as amended by this act, applies only to members of the Indiana state teachers' retirement fund who retire after May 31, 2004.**

SECTION 19. [EFFECTIVE APRIL 1, 2004] **(a) Employees of the judicial branch (as defined in IC 33-38-5-8.2, as added by this act) are entitled to a health care adjustment equal to the adjustment provided by the governor for state employees with respect to calendar years 2003 and 2004.**

(b) Payment of the:

(1) one thousand ninety-two dollar ($1,092) health care adjustment with respect to 2003 shall be included as a lump sum in the first pay period beginning after April 1, 2004; and

(2) eight hundred eighty-four ($884) health care adjustment with respect to 2004 shall be prorated over the pay periods remaining in 2004 after April 1, 2004.

(c) Funds for compliance with this SECTION are appropriated to the supreme court from the judicial branch insurance adjustment account established by IC 33-38-5-8.2, as added by this act, for the biennium ending June 30, 2005.

(d) If the funds appropriated for compliance with this SECTION are insufficient, there is appropriated to the supreme court from the personal services/fringe benefits contingency fund for the biennium ending June 30, 2005, sufficient funds to carry out the purpose of this SECTION notwithstanding the appropriation made to the state budget agency for the personal services/fringe benefits contingency fund in P.L.224-2003, SECTION 3.

(e) This SECTION expires July 1, 2005.

SECTION 20. [EFFECTIVE UPON PASSAGE] **Notwithstanding IC 1-1-1-8, the provisions of this act are not severable.**

SECTION 21. **An emergency is declared for this act.**

(Reference is to EHB 1401 as reprinted February 25, 2004.)

KUZMAN	HARRISON
BOSMA	ROGERS
House Conferees	Senate Conferees

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

RESOLUTIONS ON FIRST READING

House Resolution 81

Representative T. Adams introduced House Resolution 81:

A HOUSE RESOLUTION urging Muncie, Indiana, to adopt a city ordinance to fly the MIA/POW flag at city buildings and highway rest stops.

Whereas, In 1971, Mrs. Michael Hoff, an MIA wife and member of the National League of Families, recognized the need for a symbol of our POW/MIAs;

Whereas, Together with Norman Rivkees, vice president of Annin & Company, Mrs. Hoff designed a flag to represent our missing men;

Whereas, On March 9, 1989, an official POW/MIA flag, which flew over the White House on National POW/MIA Recognition Day in 1988, was installed in the U.S. Capitol Rotunda as a result of legislation passed overwhelmingly during the 100th Congress;

Whereas, The POW/MIA flag is the only flag that has ever been displayed in the U.S. Capitol Rotunda, where it still stands as a powerful symbol of our national commitment to America's POW/MIAs;

Whereas, The POW/MIA flag will continue flying until our country has received the fullest possible accounting for U.S. personnel still missing and unaccounted for from the Viet Nam War;

Whereas, Hoosiers owe an eternal debt of gratitude to all men and women who were prisoners of war and who are still missing in action; and

Whereas, The Indiana House of Representatives acknowledges the service, courage, and sacrifice of these men and women and wishes to honor them: 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 urges the city of Muncie to adopt a city ordinance to fly the POW/MIA flag at city buildings and highway rest stops.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Mayor Dan Canan, City Council members Chuck Leonard, William Shroyer, Robert Marshall, David Taylor, Mary Jo Barton, Jack Isenbarger, Bruce Wiemer, Monty Murphy, and Allison Quirk.

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

House Resolution 82

Representatives Van Haaften and Avery introduced House Resolution 82:

A HOUSE RESOLUTION honoring firefighter Keith Keuster.

Whereas, Firefighter Keith Keuster is a hero;

Whereas, Kenny Collins is alive today due to the quick actions of Keith Keuster;

Whereas, While traveling on the Ohio River to pick up a friend for a hunting trip, Keith Keuster was flagged down by a man near Green Light Curve;

Whereas, Keith Keuster was told that a man had been swept away by the swift current;

Whereas, Keith Keuster immediately notified Perry Township Volunteer Fire Department and AMR Ambulance and had St. Mary's LifeFlight helicopter dispatched;

Whereas, The victim was spotted by the St. Mary's LifeFlight helicopter clinging to a tree in about five feet of water, but his location was not accessible by water;

Whereas, With Keith Keuster on board, LifeFlight landed as close as possible to the victim;

Whereas, Keith Keuster and two Marrs Township rescuers who had reached the scene by jet ski walked out to the victim and carried him to safety; and

Whereas, Keith Keuster is a Hoosier hero: 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 express its gratitude to Keith Keuster and to commend him for his act of bravery.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Keith Keuster and his family.

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

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 1171 and that the House now concur in the Senate amendments to said bill.

C. BROWN

Roll Call 265: yeas 89, nays 0. Motion prevailed.

Representatives Ripley and Saunders, who had been excused, were present.

HOUSE MOTION

Mr. Speaker: I move that the House reconsider its actions whereby it dissented from the Senate amendments to Engrossed House Bill 1032 and that the House now concur in the Senate amendments to said bill.

FRENZ

Roll Call 266: yeas 90, nays 0. Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that the House concur in the Senate amendments to Engrossed House Bill 1349.

CHOWNING

On the motion of Representative Bottorff the previous question was called. Roll Call 267: yeas 75, nays 17. Motion prevailed.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT

EHB 1151–1; filed March 4, 2004, at 4:05 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 1151 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 professions and occupations.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 25-10-1-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1.5. (a) There is created a board of chiropractic examiners. The board shall consist of seven (7) members appointed by the governor, not more than four (4) of whom may be affiliated with the same political party. Six (6) of the board members must be licensed under this chapter and must have had at least five (5) years of experience as a chiropractor prior to their appointment. One (1) member is to represent the general public and must be:

(1) a resident of this state; and

(2) in no way associated with the profession of chiropractic other than as a consumer.

(b) All members shall be appointed for a term of three (3) years and serve until their successors are appointed and qualified. A vacancy occurring on the board shall be filled by the governor by appointment. Each appointed member shall serve for the unexpired term of the vacating member.

(c) The members of the board are entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Members are also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(d) The members of the board shall organize by the election of a chairman and a vice chairman from among its membership. The officers serve for a term of one (1) year. The board shall meet at least once each year and on other occasions as it considers necessary and advisable. A meeting of the board may be called by its chairman or by a majority of the members on the board. Four (4) members of the board constitute a quorum for the transaction of business. All decisions are required to be made by a majority vote of the quorum.

(e) The bureau shall provide a secretary of the board and other personnel necessary for the proper performance of the board's duties and responsibilities under this chapter. The board, through the bureau, shall receive and account for all money collected under this chapter and pay the money to the treasurer of state to be deposited by the treasurer in the general fund of the state.

(f) The board may do the following:

(1) Establish reasonable application, examination, and renewal procedures for certification under this chapter.

(2) Use an examination under this chapter that is designed by the board, designed by another person, or designed in part by the board and in part by another person.

(3) Conduct in the manner prescribed by the board examinations of applicants for certification under this chapter. The board may conduct any part of the examinations through a person other than the bureau who is approved by the board. The bureau may conduct any part of the examinations under IC 25-1-5-4.

(4) Issue, deny, suspend, revoke, and renew certificates.

(5) Subject to IC 25-1-7, investigate and conduct hearings, upon complaint against individuals certified or not certified under this chapter, concerning alleged violation of this chapter with hearings to be conducted in accordance with IC 4-21.5.

(6) Initiate the prosecution and enjoinder of a person violating this chapter.

(7) Adopt rules necessary for the proper performance of the board's duties, in accordance with IC 4-22-2.

(8) Maintain a current list of individuals certified under this chapter.

(9) Establish a code of professional conduct.

(10) Adopt rules under IC 4-22-2 to allow chiropractors licensed under this chapter to delegate the manual manipulation, manual adjustment, or manual mobilization of the spinal column or the vertebral column under section ~~14(c)(4)~~ **14(d)(4)** of this chapter.

(11) Adopt rules under IC 4-22-2 establishing standards for the registration and regulation of chiropractic management consultants (as defined by the board under IC 25-10-2).

(12) Set fees for the annual registration of a chiropractic management consultant under IC 25-10-2.

(g) The board shall adopt rules establishing standards for the competent practice of the science of the chiropractic in accordance with IC 4-22-2.

(h) All expenses incurred in the administration of this chapter shall be paid from the state general fund upon appropriation being made in the manner provided by law for the making of appropriations.

SECTION 2. IC 25-10-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. (a) This section applies to all persons, including persons listed in IC 25-22.5-1-2.

(b) **As used in this section, "manual adjustment" means a manual or mechanical intervention that may have velocity, lever, amplitude, or recoil and that:**

(1) may carry a joint complex beyond the normal physiological range of motion;

(2) is applied without exceeding the boundaries of anatomical integrity of the joint complex or other articulations; and

(3) is intended to result in a cavitation of the joint or a reduction of a subluxation.

(c) A person may manually manipulate, manually adjust, or manually mobilize the spinal column or the vertebral column of an individual only if the person is:

(1) a chiropractor who has been issued a license under this chapter;

(2) a physician who has been issued an unlimited license to practice medicine under IC 25-22.5; or

(3) an osteopathic physician who has been issued a license to practice osteopathic medicine under IC 25-22.5.

~~(c)~~ **(d)** A person may not delegate the manual manipulation, manual adjustment, or manual mobilization of the spinal column or the vertebral column of an individual to another person, unless the other person is:

(1) licensed as a chiropractor under this chapter;

(2) licensed as a physician with an unlimited license to practice medicine under IC 25-22.5;

(3) licensed as an osteopathic physician with a license to practice osteopathic medicine under IC 25-22.5;

(4) a student in the final year of course work at an accredited chiropractic school participating in a preceptorship program and working under the direct supervision of a chiropractor licensed under this chapter; or

(5) a graduate of a chiropractic school who holds a valid temporary permit issued under section 5.5 of this chapter.

~~(d)~~ **(e)** If a violation of subsection ~~(b) or~~ (c) **or (d)** is being committed:

(1) the board in its own name;

(2) the board in the name of the state; or

(3) the prosecuting attorney of the county in which the violation occurs, at the request of the board and in the name of the state;

may apply for an order enjoining the violation from the circuit court of the county in which the violation occurs.

~~(e)~~ **(f)** Upon a showing that a person has violated subsection ~~(b) or~~ (c) **or (d),** the court may grant without bond an injunction, a restraining order, or other appropriate order.

~~(f) This section does not apply to a physical therapist practicing under IC 25-27. However, a physical therapist may not practice chiropractic (as defined in IC 25-10-1-1) or medicine (as defined in IC 25-22.5-1-1.1) unless licensed to do so.~~

SECTION 3. IC 25-27-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. For the purposes of this chapter:

(1) "Physical therapy" means the evaluation of, administration of, or instruction in physical rehabilitative and habilitative techniques, **manual therapy,** and procedures to evaluate, prevent, correct, treat, alleviate, and limit physical disability, pathokinesiological function, bodily malfunction, pain from injury, disease, and any other physical disability or ~~mental~~ disorder, including:

(A) the use of physical measures, agents, and devices for preventive and therapeutic purposes;

(B) neurodevelopmental procedures;

(C) the performance, interpretation, and evaluation of physical therapy tests and measurements; and

(D) the provision of consultative, educational, and other advisory services for the purpose of preventing or reducing the incidence and severity of physical disability, bodily malfunction, and pain.

(2) "Physical therapist" means a person who practices physical therapy as defined in this chapter.

(3) "Physical therapist's assistant" means a person who assists in the practice of physical therapy as defined in this chapter.

(4) "Board" refers to the medical licensing board.

(5) "Committee" refers to the Indiana physical therapy committee established under section 4 of this chapter.

(6) "Person" means an individual.

(7) "Manual therapy" means a group of techniques comprising a continuum of skilled passive movements to the joints or related soft tissues throughout the normal range of physiological motion that are applied at varying speeds and amplitudes without engaging in a technique that is intended to result in a cavitation of the joint or a reduction of a subluxation.

(8) "Sharp debridement" means the removal of foreign material or dead tissue from or around a wound, without anesthesia and with generally no bleeding, through the use of:

(A) a sterile scalpel;

(B) scissors;

(C) forceps;

(D) tweezers; or

(E) other sharp medical instrument;

in order to expose healthy tissue, prevent infection, and to promote healing.

SECTION 4. IC 25-27-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) Except as otherwise provided in this chapter, it is unlawful for a person to practice physical therapy or to profess to be a physical therapist, physiotherapist, or physical therapy technician or to use the initials "P.T.", "P.T.T.", or "R.P.T.", or any other letters, words, abbreviations, or insignia indicating that the person is a physical therapist, or to practice or to assume the duties incident to physical therapy without first obtaining from the board a license authorizing the person to practice physical therapy in this state.

(b) **Except as provided under section 2.5 of this chapter,** it is unlawful for a person to practice physical therapy other than upon the order or referral of a physician, podiatrist, psychologist **(only as allowed under subsection (e)),** chiropractor, or dentist holding an unlimited license to practice medicine, podiatric medicine, psychology, chiropractic, or dentistry, respectively. It is unlawful for a physical therapist to use the services of a physical therapist's assistant except as provided under this chapter. For the purposes of this subsection, the function of:

(1) teaching;

(2) doing research;

(3) providing advisory services; or

(4) conducting seminars on physical therapy;

is not considered to be a practice of physical therapy.

(c) Except as otherwise provided in this chapter, it is unlawful for a person to act as a physical therapist's assistant or to use initials, letters, words, abbreviations, or insignia indicating that the person is a physical therapist's assistant without first obtaining from the board a certificate authorizing the person to act as a physical therapist's assistant. It is unlawful for the person to act as a physical therapist's assistant other than under the direct supervision of a licensed physical therapist who is in responsible charge of a patient or under the direct supervision of a physician. However, nothing in this chapter prohibits a person licensed or registered in this state under another law from engaging in the practice for which the person is licensed or registered. These exempted persons include persons engaged in the practice of osteopathy, chiropractic, or podiatric medicine.

(d) **Except as provided in section 2.5 of this chapter,** this chapter does not authorize a person who is licensed as a physical therapist or certified as a physical therapist's assistant to:

(1) evaluate any physical disability ~~or mental disorder~~ except upon the order or referral of a physician, podiatrist, ~~psychologist,~~ chiropractor, or dentist;

(2) practice medicine, surgery (as described in IC 25-22.5-1-1.1(a)(1)(C)), dentistry, optometry, osteopathy, psychology, chiropractic, or podiatric medicine; or

(3) prescribe a drug or other remedial substance used in medicine.

(e) A psychologist may refer a patient to a physical therapist under this chapter only for treatment directly related to a condition:

(1) for which the psychologist is treating the individual; and

(2) that is under the psychologist's scope of practice described in IC 25-33-1.

SECTION 5. IC 25-27-1-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2.5. A physical therapist may provide subsequent treatment to an individual who was previously referred to the physical therapist for the same condition if the referral is not more than twelve (12) months**

before the date the individual requests subsequent treatment from the physical therapist. The physical therapist shall consult with the individual's original referring provider not later than three (3) days after the physical therapist provides treatment to the individual under this section.

SECTION 6. IC 25-27-1-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 3.5. (a) This section applies to a physical therapist who has at least one (1) year experience in the actual practice of physical therapy as a licensed physical therapist.**

(b) If an individual does not meet the requirements set forth in section 2.5 of this chapter, a physical therapist may evaluate the individual without a referral from a provider described in section 2(b) of this chapter. However, the physical therapist shall contact the individual's appropriate provider for a referral not later than three (3) business days after the physical therapist evaluates the individual but before the physical therapist provides treatment to the individual.

(c) Notwithstanding section 2.5 of this chapter, a physical therapist may not perform sharp debridement unless the physical therapist performing the sharp debridement is acting upon the order of a physician licensed under:

(1) IC 25-22.5; or

(2) IC 25-29.

SECTION 1. IC 25-1-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. ~~(a) By enactment of this chapter, the general assembly intends that, with the exception of the director, the staff of the Indiana professional licensing agency be comprised initially from among persons employed by the boards to which this chapter applies, and that no increase in the aggregate number of persons so employed be allowed by the state personnel department and the state budget agency except to comply with the provisions of this chapter.~~

~~(b) It is the further intent of the general assembly that~~ The centralization of staff, functions, and services contemplated by this chapter **shall** be done in such a way as to enhance the licensing agency's ability to:

(1) make maximum use of data processing as a means of more efficient operation;

(2) provide more services and carry out functions of superior quality; and

(3) ultimately and significantly reduce the number of staff needed to provide these services and carry out these functions.

SECTION 2. IC 25-1-6-3, AS AMENDED BY P.L.145-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) There is established the Indiana professional licensing agency. The licensing agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State boxing commission (IC 25-9-1).

(6) State board of cosmetology examiners (IC 25-8-3-1).

(7) State board of funeral and cemetery service (IC 25-15-9).

(8) State board of registration for professional engineers (IC 25-31-1-3).

(9) Indiana plumbing commission (IC 25-28.5-1-3).

(10) Indiana real estate commission (IC 25-34.1).

(11) Real estate appraiser licensure and certification board (IC 25-34.1-8-1).

(12) Private detectives licensing board (IC 25-30-1-5.1).

(13) State board of registration for land surveyors (IC 25-21.5-2-1).

(14) Manufactured home installer licensing board (IC 25-23.7).

(15) Home inspectors licensing board (IC 25-20.2-3-1).

(b) ~~Except for appeals of denials of license renewals to the executive director authorized by section 5.5 of this chapter,~~ Nothing in this chapter may be construed to give the licensing agency policy making authority, which remains with each board.

SECTION 3. IC 25-1-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) The licensing agency shall employ necessary staff, including specialists and professionals, to carry out the administrative duties and functions of the boards, including but not limited to:

(1) notice of board meetings and other communication services;

(2) recordkeeping of board meetings, proceedings, and actions;

(3) recordkeeping of all persons or individuals licensed, regulated, or certified by a board;

(4) administration of examinations; and

(5) administration of license or certificate issuance or renewal.

(b) In addition, the licensing agency:

(1) shall prepare a consolidated statement of the budget requests of all the boards in section 3 of this chapter;

(2) may coordinate licensing or certification renewal cycles, examination schedules, or other routine activities to efficiently utilize licensing agency staff, facilities, and transportation resources, and to improve accessibility of board functions to the public; and

(3) may consolidate, where feasible, office space, recordkeeping, and data processing services.

~~(4) shall, upon written request, furnish at cost to any person a list of the names and addresses of persons holding a license or permit issued by one (1) of the boards listed in section 3 of this chapter.~~

(c) In administering the renewal of licenses or certificates under this chapter, the licensing agency shall issue a sixty (60) day notice of expiration to all holders of a license or certificate. The notice ~~shall be accompanied by appropriate renewal forms.~~ **must inform the holder of a license or certificate of the requirements to:**

(1) renew the license or certificate; and

(2) pay the renewal fee.

(d) If the licensing agency fails to send notice of expiration under subsection (c), the holder of the license or certificate is not subject to a sanction for failure to renew if the holder renews the license or certificate within forty-five (45) days after the holder receives the notice from the licensing agency.

(e) The licensing agency may require an applicant for a license or certificate renewal to submit evidence showing that the applicant:

(1) meets the minimum requirements for licensure or certification; and

(2) is not in violation of:

(A) the law regulating the applicant's profession; or

(B) rules adopted by the board regulating the applicant's profession.

(f) The licensing agency may delay renewing a license or certificate for not more than ninety (90) days after the renewal date to permit the board to investigate information received by the licensing agency that the applicant for renewal may have committed an act for which the applicant may be disciplined. If the licensing agency delays renewing a license or certificate, the licensing agency shall notify the applicant that the applicant is being investigated. Except as provided in subsection (g), the board shall do one (1) of the following before the expiration of the ninety (90) day period:

(1) Deny renewal of the license or certificate following a personal appearance by the applicant before the board.

(2) Renew the license or certificate upon satisfaction of all other requirements for renewal.

(3) Renew the license and file a complaint under IC 25-1-7.

(4) Request the office of the attorney general to conduct an investigation under subsection (h) if, following a personal appearance by the applicant before the board, the board has good cause to believe that the applicant engaged in activity described in IC 25-1-11-5.

(5) Upon agreement of the applicant and the board and following a personal appearance by the applicant before the board, renew the license or certificate and place the applicant on probation status under IC 25-1-11-12.

(g) If an applicant fails to appear before the board under subsection (f), the board may take action as provided in

subsection (f)(1), (f)(2), or (f)(3).

(h) If the board makes a request under subsection (f)(4), the office of the attorney general shall conduct an investigation. Upon completion of the investigation, the office of the attorney general may file a petition alleging that the applicant has engaged in activity described in IC 25-1-11-5. If the office of the attorney general files a petition, the board shall set the matter for a hearing. If, after a hearing, the board finds the practitioner violated IC 25-1-11-5, the board may impose sanctions under IC 25-1-11-12. The board may delay renewing a license or certificate beyond ninety (90) days after the renewal date until a final determination is made by the board. The applicant's license or certificate remains valid until the final determination of the board is rendered unless the renewal is:

(1) denied; or

(2) summarily suspended under IC 25-1-11-13.

(i) The license or certificate of the applicant for license renewal remains valid during the ninety (90) day period unless the license is denied following a personal appearance by the applicant before the board before the end of the ninety (90) day period. If the ninety (90) day period expires without action by the board, the license or certificate shall be automatically renewed at the end of the ninety (90) day period.

(j) Notwithstanding any other statute, the licensing agency may stagger license or certificate renewal cycles.

(k) An application for a license or certificate or registration is abandoned without an action by the board if the applicant does not complete the requirements within one (1) year after the date on which the application was filed. However, the board may, for good cause shown, extend the validity of the application for additional thirty (30) day periods. An application submitted after the abandonment of an application is considered a new application.

SECTION 4. IC 25-1-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) The licensing agency shall be administered by an executive director appointed by the governor who shall serve at the will and pleasure of the governor.

(b) The executive director must be qualified by experience and training.

(c) The term "executive director" or "secretary", or any other statutory term for the administrative officer of a board listed in section 3 of this chapter, means the executive director of the licensing agency or ~~his~~ **the executive director's** designee.

(d) The executive director is the chief fiscal officer of the licensing agency and is responsible for hiring of all staff and for procurement of all services and supplies in accordance with IC 5-22. The executive director and the employees of the licensing agency are subject to IC 4-15-1.8 but are not under IC 4-15-2. The executive director may appoint no more than three (3) deputy directors, who must be qualified to work for the boards which are served by the licensing agency.

(e) The executive director shall execute a bond payable to the state, with surety to consist of a surety or guaranty corporation qualified to do business in Indiana, in an amount fixed by the state board of accounts, conditioned upon the faithful performance of duties and the accounting for all money and property that come into the executive director's hands or under the executive director's control. The executive director may likewise cause any employee of the licensing agency to execute a bond if that employee receives, disburses, or in any way handles funds or property of the licensing agency. The costs of any such bonds shall be paid from funds available to the licensing agency.

(f) The executive director may present to the general assembly legislative recommendations regarding operations of the licensing agency and the boards it serves, including adoption of four (4) year license or certificate renewal cycles wherever feasible.

(g) Upon the request of a board or commission, the executive director may execute orders, subpoenas, continuances, and other legal documents on behalf of the board or commission.

(h) Upon request of a board or commission, the executive director or the executive director's designee may provide advice and technical assistance on issues that may be presented to a board or a commission.

SECTION 6. IC 25-1-8-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 7. (a) As used in this section, "board" includes the entities listed in IC 25-1-6-3.**

(b) Notwithstanding any other law regarding fees for reinstatement or restoration of a delinquent or lapsed license or certificate, a practitioner who holds a delinquent or lapsed license, certificate, or registration that was issued by the board must pay:

(1) the fee established by the board under section 2 of this chapter; and

(2) a reinstatement fee established by the licensing agency.

(c) The holder shall complete all other requirements for reinstatement or restoration of the license, certificate, or registration that are:

(1) provided for in statute or rule; and

(2) not related to fees.

(d) This section does not apply to a license, certificate, or registration if one (1) the following applies:

(1) The license, certificate, or registration has been revoked or suspended.

(2) A statute specifically does not allow a license, certificate, or registration to be reinstated or restored.

SECTION 7. IC 25-1-11-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. The board may order a practitioner to submit to a reasonable physical or mental examination, **at the practitioner's own expense,** if the practitioner's physical or mental capacity to practice safely and competently is at issue in a disciplinary proceeding.

SECTION 8. IC 25-1-11-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 18. A practitioner who has been subjected to disciplinary sanctions may be required by a board to pay the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. These costs are limited to costs for the following:

(1) Court reporters.

(2) Transcripts.

(3) Certification of documents.

(4) Photo duplication.

(5) Witness attendance and mileage fees.

(6) Postage.

(7) Expert witnesses.

(8) Depositions.

(9) Notarizations.

(10) Administrative law judges.

SECTION 9. IC 25-1-11-19 IS ADDED TO THE CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 19. (a) The board may refuse to issue a license or may issue a probationary license to an applicant for licensure if:**

(1) the applicant has:

(A) been disciplined by a licensing entity of another state or jurisdiction; or

(B) committed an act that would have subjected the applicant to the disciplinary process if the applicant had been licensed in Indiana when the act occurred; and

(2) the violation for which the applicant was, or could have been, disciplined has a direct bearing on the applicant's ability to competently practice the profession in Indiana.

(b) When the board issues a probationary license, the board may require a licensee to do any of the following:

(1) Report regularly to the board upon the matters that are the basis of the discipline of the other state or jurisdiction.

(2) Limit practice to the areas prescribed by the board.

(3) Continue or renew professional education requirements.

(4) Engage in community restitution or service without compensation for the number of hours specified by the board.

(5) Perform or refrain from performing an act that the board considers appropriate to the public interest or to the rehabilitation or treatment of the applicant.

(c) The board shall remove any limitations placed on a

probationary license under this section if the board finds after a hearing that the deficiency that required disciplinary action has been remedied.

SECTION 10. IC 25-1-11-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 20. The board may require an applicant for licensure to appear before the board before issuing a license.**

SECTION 11. IC 25-4-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. ~~Any person desiring to engage or continue in the practice of architecture, in this state, shall apply to the board for a certificate of registration authorizing such person so to do, and shall submit evidence to the board that he is qualified to engage or continue in the practice of architecture, in compliance with the requirements of this chapter. The application for a certificate of registration shall be made on a form which shall be prescribed and furnished by the board, shall be verified and shall be accompanied by the prescribed fee.~~ **The board shall establish fees under IC 25-1-8-2.**

SECTION 12. IC 25-4-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. (a) Every registered architect who continues in active practice shall, biennially, on or before ~~November 2,~~ **the date established by the licensing agency under IC 25-1-6-4,** renew the registered architect's certificate of registration and pay the required renewal fee. ~~Every license or certificate of registration that has not been renewed during the month of November in any year expires on December 1 in that year.~~ A registered architect whose certificate of registration has expired may have the certificate restored only upon payment of the required ~~restoration fee~~ **fees under IC 25-1-8-7.**

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

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

(2) paying a ~~renewal~~ fee ~~equal to the sum of the renewal fees that the applicant would have paid if the applicant had regularly renewed the~~ **required under IC 25-1-8-7.**

(c) If any registered architect desires to retire from the practice of architecture in Indiana, the architect may submit to the board the architect's verified statement of intention to withdraw from practice. The statement shall be entered upon the records of the board. During the period of the architect's retirement, the architect is not liable for any renewal or restoration fees. If any retired architect desires to return to the practice of architecture in Indiana within a period of five (5) years from the date that the architect files a statement under this subsection, the retired architect must:

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

(2) pay

~~(A)~~ a renewal fee equal to the fee set by the board to renew an unexpired registration under this chapter. ~~if the retired architect's registration is renewed for one (1) year or more in a biennial renewal cycle established under subsection (a); or (B) a renewal fee equal to one-half (1/2) the fee set by the board to renew an unexpired registration under this chapter, if the retired architect's registration is renewed for less than one (1) year in a biennial renewal cycle established under subsection (a).~~

SECTION 13. IC 25-4-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16. **(a)** The fee to be paid by an applicant for an examination to determine his fitness to receive a certificate of registration as a registered architect, shall be ~~twenty-five dollars ($25.00).~~ **established by the board under IC 25-1-8-2.**

(b) The fee to be paid by an applicant for a certificate of registration as a registered architect shall be ~~twenty-five dollars ($25.00).~~ **established by the board under IC 25-1-8-2.**

(c) The fee to be paid for the restoration of an expired certificate of registration as a registered architect shall be ~~one dollar ($1.00) after the certificate has been in default for one (1) month, and an additional one dollar ($1.00) for each succeeding month or fraction thereof of such default but not exceeding a maximum restoration fee of ten dollars ($10.00). Such~~ **established under IC 25-1-8-7. The** restoration fee shall be in addition to all unpaid renewal fees.

(d) The fee to be paid upon renewal of a certificate of registration shall be ~~fifteen dollars ($15.00).~~ **established by the board under IC 25-1-8-2.**

(e) The fee to be paid by an applicant for a certificate of registration who is an architect registered or licensed under the laws of another state or territory of the United States, or of a foreign country or province, shall be ~~twenty-five dollars ($25.00).~~ **established by the board under IC 25-1-8-2.**

SECTION 14. IC 25-4-2-3, AS AMENDED BY P.L.82-2000, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) To qualify for registration as a landscape architect, an applicant must:

(1) submit evidence that the applicant is an individual who is at least eighteen (18) years of age;

(2) submit evidence that the applicant has:

(A) graduated from an accredited curriculum of landscape architecture presented by a college or school approved by the board; or

(B) attained before January 1, 2003, at least eight (8) years of actual practical experience in landscape architectural work of a grade and character satisfactory to the board;

(3) submit evidence that the applicant has paid the examination fee and the ~~license~~ **application** fee set by the board;

(4) provide an affidavit that indicates that the applicant does not have a conviction for:

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

(B) a felony that has a direct bearing on his ability to practice competently;

(5) pass the examination required by the board under section 4 of this chapter after meeting the requirements in subdivisions (1) through (4); and

(6) submit evidence that the applicant has at least three (3) years of diversified, actual, and practical experience in landscape architectural work of a grade and character satisfactory to the board.

(b) The board shall issue a certificate of registration under this chapter to an applicant who meets the requirements in this section.

SECTION 15. IC 25-6.1-3-2, AS AMENDED BY P.L.23-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) Every individual, before acting as an auctioneer, must obtain a license from the commission.

(b) An applicant for a license must:

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

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

(3) not have a conviction for:

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

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

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

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

(2) Bid calling.

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

(4) Mathematics.

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

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

(d) An individual seeking an initial license as an auctioneer under this article shall file with the commission a completed application on the form prescribed by the commission. When filing an initial application for an auctioneer license, each individual shall:

(1) pay a nonrefundable examination fee ~~of thirty-five dollars ($35)~~ **established by the commission under IC 25-1-8-2;** and

(2) pay a surcharge under IC 25-6.1-8 for deposit in the auctioneer recovery fund.

(e) When ~~filing an application~~ **applying** for a renewal of an

auctioneer license, each individual shall do the following:

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

(2) Pay the license fee prescribed by section 5 of this chapter.

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

(g) An applicant who is seeking an initial license must pass an examination prepared and administered by the commission. The commission shall hold examinations as the commission may prescribe. The examination for an auctioneer's license shall include questions on the applicant's:

(1) ability to read and write;

(2) knowledge of the value of real estate and of various goods commonly sold at an auction;

(3) knowledge of calling;

(4) knowledge of sale preparation, sale advertising, and sale summary;

(5) knowledge of mathematics; and

(6) knowledge of the provisions of this article and the commission's rules.

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

(i) Auctioneer licenses shall be issued for a term of four (4) years. A license expires at midnight, February 28, 2004, and every fourth year thereafter, unless renewed before that date. If the license has expired, it may be reinstated not more than one (1) year after the date it expired upon the payment of the renewal fee plus the ~~sum of twenty-five dollars ($25)~~ **reinstatement fee established under IC 25-1-8-7** and submission of proof that the applicant has complied with the continuing education requirement. If the license has expired for a period of more than one (1) year, the person must file an application and take the required examination. However, an applicant for restoration of an expired license is not required to complete the initial eighty (80) hour education requirement under this section in order to restore the expired license. The holder of an expired license shall cease to display the original wall certificate at the holder's place of business and shall return the wall certificate to the commission upon notification by the commission of the expiration of the holder's license.

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

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

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

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

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

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

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

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

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

(1) File an examination application.

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

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

SECTION 16. IC 25-6.1-3-5, AS AMENDED BY P.L.23-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. ~~(a)~~ At the time of obtaining a license under this chapter, the licensee shall pay the license fee ~~prescribed by this section~~ **established by the commission under IC 25-1-8-2.**

~~(b) The fee for the license issued to any person, auction company, or auction house during each licensing period is seventy dollars ($70).~~

~~(c) The commission may adopt rules that provide for the payment of a proportionate amount of the licensing fee if a license will be issued for less than the full term of the license.~~

SECTION 17. IC 25-6.1-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) The commission may charge the fee established under IC 25-1-8-2 as the cost of providing duplicate licenses to replace lost or destroyed licenses.

(b) The commission may charge ~~five dollars ($5) as the~~ **a fee established under IC 25-1-8-2 for the** cost of certified copies of licenses, which may include certified copies of a type and size which can be easily carried on the person of the licensee.

SECTION 18. IC 25-7-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) If the board determines that:

(1) a person possesses a valid license from another jurisdiction to perform acts that require a license under this article; and

(2) the jurisdiction issuing the license imposes substantially equivalent requirements on applicants for the license as are imposed on applicants for an Indiana license;

the board may issue a license to perform those acts in Indiana to the person upon payment of the fee ~~required under 816 IAC 1-3-1.~~ **established by the board under IC 25-1-8-2.**

(b) This subsection applies only to applications for a barber license under IC 25-7-10. If the jurisdiction issuing the license does not impose substantially equivalent requirements as required under subsection (a)(2), the board may approve a combination of education hours plus actual licensed practice in the other jurisdiction when issuing a license to a person from that jurisdiction. One (1) year of licensed practice is equal to one hundred (100) hours of education to an applicant who has completed a minimum of one thousand (1,000) hours of education.

SECTION 19. IC 25-7-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. An expired barber license may be ~~restored~~ **reinstated** by payment of the ~~restoration fee plus all unpaid~~ **reinstatement and** renewal fees **required under IC 25-1-8-2 and IC 25-1-8-7** within five (5) years of the expiration date of the license. After five (5) years from the date that a barber license expires under this section, the person whose license has expired may restore the license only by:

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

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

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

SECTION 20. IC 25-7-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The board shall ~~charge a fee of three hundred dollars ($300) for an application to issue or renew a barber school license.~~ **adopt rules under IC 4-22-2 to establish fees for the application, issuance, and renewal of barber school licenses under IC 25-1-8-2.**

(b) In addition to the fee charged under subsection (a), the board shall charge a fee for ~~restoring~~ **reinstating** a barber school license **under IC 25-1-8-7.**

~~(c) The fee charged under subsection (b) shall be determined by~~

~~the date that the applicant applies for the restoration of the license as follows:~~

~~Number of days following expiration of license~~	~~Fee~~
~~0-30~~	~~$0~~
~~31-180~~	~~$150~~
~~181-191~~	~~$200~~

~~(d) The fee charged under subsection (b) shall be accompanied by all unpaid renewal fees.~~

~~(c)~~ **(c)** A barber school license may not be ~~restored~~ **reinstated** if at least one hundred ninety-two (192) days have passed since the license expired. However, the barber school may obtain a new license by:

(1) making application;
(2) meeting the requirements for licensure; and
(3) paying a fee ~~of four hundred dollars ($400).~~ **established by the board.**

SECTION 21. IC 25-7-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. ~~(a)~~ The board shall ~~charge a fee of forty dollars ($40) to issue or renew an instructor license.~~

~~(b) To restore an expired barber instructor license, the board shall charge a fee of seventy-five dollars ($75) plus all unpaid renewal fees.~~

~~(c) The board shall charge a fee of fifty dollars ($50) for providing an examination to an applicant for a barber instructor license.~~ **adopt rules under IC 4-22-2 to establish fees related to an instructor's license under IC 25-1-8-2.**

SECTION 22. IC 25-7-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) The board shall ~~charge a fee of forty dollars ($40) for issuing or renewing a barber shop license.~~

~~(b) The board shall charge a fee for restoring a barber shop license that shall be determined by the date that the applicant applies for the restoration of the license as follows:~~

~~Number of days following expiration of license~~	~~Fee~~
~~0-30~~	~~$ 10~~
~~31-180~~	~~$ 50~~
~~181-191~~	~~$100~~

~~(c) The fee charged under subsection (b) shall be accompanied by all unpaid renewal fees.~~ **adopt rules under IC 4-22-2 to establish fees related to barber shop licenses under IC 25-1-8-2.**

~~(d)~~ **(b)** A barber shop license may not be restored if at least one hundred ninety-two (192) days have passed since the license expired. However, the barber shop may obtain a new license by:

(1) making application;
(2) meeting the requirements for licensure; and
(3) paying ~~a fee of one hundred forty dollars ($140).~~ **the fees established under IC 25-1-8-2 and IC 25-1-8-7.**

SECTION 23. IC 25-7-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) The board shall ~~charge a fee of at least thirty dollars ($30) and not more than fifty dollars ($50)~~ **establish fees under IC 25-1-8-2** for providing an examination to an applicant for a barber license.

(b) The board shall ~~charge a fee of forty dollars ($40)~~ **establish fees under IC 25-1-8-2** for issuing or renewing a barber license.

(c) The board shall charge a fee ~~for restoring~~ **established under IC 25-1-8-7 for reinstating** a barber license. ~~that shall be determined by the date that the applicant applies for the restoration of the license as follows:~~

~~Number of days following expiration of license~~	~~Fee~~
~~0-30~~	~~$ 10~~
~~31-181~~	~~$ 50~~
~~182-5 years~~	~~$100~~

~~(d) The fee charged under subsection (c) shall be accompanied by all unpaid renewal fees.~~

SECTION 24. IC 25-7-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. The board shall ~~charge~~ **establish** a fee ~~of ten dollars ($10)~~ **under IC 25-1-8-2** for issuing a duplicate license.

SECTION 25. IC 25-8-4-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 21. Except as provided in IC 25-8-9-11, the board may, upon application, ~~restore~~ **reinstate** a license under this chapter that has expired if the person holding the license:

(1) pays ~~any unpaid~~ renewal fees ~~to the board;~~ **established by the board under IC 25-1-8-2;**
(2) pays the license restoration fee set forth in IC 25-8-13;
(3) complies with all requirements imposed by this article on an applicant for an initial license to perform the acts authorized by the license being ~~restored~~ **reinstated,** other than receiving a satisfactory grade (as defined in section 9 of this chapter) on an examination prescribed by the board; and
(4) fulfills the continuing education requirements under IC 25-8-15.

SECTION 26. IC 25-8-4-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 22. (a) Except as provided in subsection (b), the board may not ~~restore~~ **reinstate** a license issued under this article if the person holding the license does not petition for license renewal within three (3) years after the expiration of the license, unless that person complies with section 23 of this chapter.

(b) The board may not restore:

(1) a cosmetology salon license issued under IC 25-8-5;
(2) an electrology salon license issued under IC 25-8-7.2;
(3) an esthetician salon license issued under IC 25-8-12.6;
(4) a manicurist salon license issued under IC 25-8-7.1; or
(5) a cosmetology school license issued under IC 25-8-7;

unless the license holder submits an application for restoration of the license within six (6) months after the date the license expired.

SECTION 27. IC 25-8-4-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 23. The board may ~~restore~~ **reinstate** a license issued under this article held by a person described in section 22(a) of this chapter if the applicant:

(1) receives a satisfactory grade (as defined in section 9 of this chapter) on an examination prescribed by the board;
(2) pays the examination fee set forth in IC 25-8-13;
(3) pays the ~~restoration~~ **reinstatement** fee set forth in IC 25-8-13; and
(4) complies with all requirements imposed by this article on an applicant for an initial license to perform the acts authorized by the license being restored.

SECTION 28. IC 25-8-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The board shall charge a fee ~~of four hundred dollars ($400)~~ **established by the board under IC 25-1-8-2** for an application to issue or renew a cosmetology school license.

(b) The board shall charge a fee for restoring a cosmetology school license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following Expiration of License~~	~~Fee~~
~~1- 30~~	~~$200~~
~~31- 180~~	~~300~~
~~More than 180~~	~~400~~

SECTION 29. IC 25-8-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) The board shall charge a fee ~~of forty dollars ($40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing:

(1) a cosmetology instructor license;
(2) an esthetics instructor license; or
(3) an electrology instructor license.

(b) The board shall charge a fee **established under IC 25-1-8-7** for ~~restoring~~ **reinstating** an instructor license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following Expiration of License~~	~~Fee~~
~~1- 30~~	~~$ 20~~
~~31- 180~~	~~30~~
~~More than 180~~	~~40~~

SECTION 30. IC 25-8-13-5 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) The board shall charge a fee ~~of forty dollars ($40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing:

(1) a cosmetology salon license;
(2) an electrology salon license;
(3) an esthetic salon license; or
(4) a manicurist salon license.

(b) The board shall charge a fee **as required under IC 25-1-8-7** for ~~restoring~~ **reinstating:**

(1) a cosmetology salon license;
(2) an electrology salon license;
(3) an esthetic salon license; or
(4) a manicurist salon license.

~~(c) The fee charged under subsection (b) shall be determined by the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following Expiration of License~~	~~Fee~~
~~0 - 30~~	~~$ 10~~
~~31 - 180~~	~~50~~
~~181 - 191~~	~~100~~

SECTION 31. IC 25-8-13-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) The board shall charge a fee ~~of twenty-five dollars ($25)~~ **established by the board under IC 25-1-8-2** for providing an examination to an applicant for a master cosmetologist license.

(b) The board shall charge a fee ~~of forty dollars ($40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing a master cosmetologist license.

(c) The board shall charge a fee **as required under IC 25-1-8-7** for ~~restoring~~ **reinstating** a master cosmetologist license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following Expiration of License~~	~~Fee~~
~~1- 30~~	~~$ 20~~
~~31- 180~~	~~30~~
~~More than 180~~	~~40~~

SECTION 32. IC 25-8-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) The board shall charge a fee ~~of twenty dollars ($20)~~ **established by the board under IC 25-1-8-2** for providing an examination to an applicant for a cosmetologist license.

(b) The board shall charge a fee ~~of forty dollars ($40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing a cosmetologist license.

(c) The board shall charge a fee **required under IC 25-1-8-7** for ~~restoring~~ **reinstating** a cosmetologist license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following Expiration of License~~	~~Fee~~
~~1- 30~~	~~$ 20~~
~~31- 180~~	~~30~~
~~More than 180~~	~~40~~

(d) The board shall charge a fee ~~of one hundred dollars ($100)~~ **established by the board under IC 25-1-8-2** for issuing an Indiana cosmetologist license to a person who holds a license from another jurisdiction that meets the requirements set forth in IC 25-8-4-2.

SECTION 33. IC 25-8-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) The board shall charge a fee ~~of twenty-five dollars ($25)~~ **established by the board under IC 25-1-8-2** for providing an examination to an applicant for an electrologist license.

(b) The board shall charge a fee ~~of forty dollars ($40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing an electrologist license.

(c) The board shall charge a fee **required under IC 25-1-8-7** for ~~restoring~~ **reinstating** an electrologist license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following Expiration of License~~	~~Fee~~
~~1- 30~~	~~$ 20~~
~~31- 180~~	~~30~~
~~More than 180~~	~~40~~

(d) The board shall charge a fee ~~of one hundred dollars ($100)~~ **established by the board under IC 25-1-8-2** for issuing a license to a person who holds an electrologist license from another jurisdiction that meets the requirements under IC 25-8-4-2.

SECTION 34. IC 25-8-13-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) The board shall charge a fee ~~of ten dollars ($10)~~ **established by the board under IC 25-1-8-2** for providing an examination to an applicant for a manicurist license.

(b) The board shall charge a fee ~~of forty dollars ($40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing a manicurist license.

(c) The board shall charge a fee **required under IC 25-1-8-7** for ~~restoring~~ **reinstating** a manicurist license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following Expiration of License~~	~~Fee~~
~~1- 30~~	~~$ 20~~
~~31- 180~~	~~30~~
~~More than 180~~	~~40~~

(d) The board shall charge a fee ~~of one hundred dollars ($100)~~ **established by the board under IC 25-1-8-2** for issuing a license to a person who holds a manicurist license from another jurisdiction that meets the requirements under IC 25-8-4-2.

SECTION 35. IC 25-8-13-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) The board shall charge a fee ~~of twenty dollars ($20)~~ **established by the board under IC 25-1-8-2** for providing an examination to an applicant for a shampoo operator license.

(b) The board shall charge a fee ~~of forty dollars ($40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing a shampoo operator license.

(c) The board shall charge a fee **as required under IC 25-1-8-7** for ~~restoring~~ **reinstating** a shampoo operator license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following Expiration of License~~	~~Fee~~
~~1- 30~~	~~$ 20~~
~~31- 180~~	~~30~~
~~More than 180~~	~~40~~

SECTION 36. IC 25-8-13-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) The board shall charge a fee ~~of twenty-five dollars ($25)~~ **established by the board under IC 25-1-8-2** for providing an examination to an applicant for an esthetician license.

(b) The board shall charge a fee ~~of forty dollars ($40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing an esthetician license.

(c) The board shall charge a fee **as required under IC 25-1-8-7** for ~~restoring~~ **reinstating** an esthetician license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following Expiration of License~~	~~Fee~~
~~1- 30~~	~~$ 20~~
~~31- 180~~	~~30~~
~~More than 180~~	~~40~~

(d) The board shall charge a fee ~~of one hundred dollars ($100)~~ **established by the board under IC 25-1-8-2** for issuing a license to a person who holds an esthetician license from another jurisdiction that meets the requirements under IC 25-8-4-2.

SECTION 37. IC 25-8-15.4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. To obtain a license to operate a tanning facility, a person must do the following:

(1) Submit an application to the board on a form prescribed by the board.

(2) Pay a fee ~~of two hundred dollars ($200)~~ **established by the board under IC 25-1-8-2.**

SECTION 38. IC 25-9-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 20. (a) The commission shall, upon application to the Indiana professional licensing agency, grant licenses to competent referees and judges whose qualifications may be tested by the commission, and the commission may revoke any such license granted to any referee or judge upon such cause as the commission may deem sufficient. Such license must be renewed biennially. No person shall be permitted to act as referee or judge in Indiana unless holding such license.

(b) The application for license as referee, or renewal thereof, shall be accompanied by a fee ~~which shall not be less than twenty-five dollars ($25).~~ **established by the commission under IC 25-1-8-2.**

(c) The commission shall appoint from among such licensed officials, all officials for all contests held under this chapter.

SECTION 39. IC 25-15-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. The board shall restore the expired license of an individual who:

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

(2) applies for restoration of the funeral director license or embalmer license within two (2) years or four (4) years of the date that the license expired as set by the board;

(3) pays a fee ~~that is equal to:~~

~~(A) the fee set by the board for renewal of a funeral director license or embalmer license; or~~

~~(B) the fee set by the board for renewal of a funeral director license or embalmer license multiplied by the product of two (2) times the number of six (6) month periods that have elapsed from the date that the license expired;~~

~~whichever is greater;~~ **established under IC 25-1-8-7;** and

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

SECTION 40. IC 25-15-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. The board may ~~restore~~ **reinstate** the license of:

(1) a person that has allowed a funeral home license to expire only if the person reapplies for a funeral home license, pays ~~an additional~~ **a** fee ~~set by the board,~~ **required under IC 25-1-8-7,** and otherwise meets the requirements in IC 25-15-4-1;

(2) an individual whose funeral director intern license has expired only if the individual reapplies for a funeral director intern license, takes another examination, if required by the board, pays ~~an additional~~ **a** fee ~~set by the board,~~ **required under IC 25-1-8-7,** and otherwise meets the requirements in IC 25-15-4-2; or

(3) an individual whose funeral director license has expired after the time set in section 4 of this chapter has run only if the individual reapplies for a funeral director license, takes another examination, pays ~~an additional~~ **a** fee ~~set by the board,~~ **required under IC 25-1-8-7,** and otherwise meets the requirements in IC 25-15-4-3(b).

The board may not restore an embalmer license or a funeral director license for a person qualified only under IC 25-15-4-3(d) after the time set under section 4 of this chapter has expired.

SECTION 41. IC 25-21.5-7-5, AS AMENDED BY P.L.113-1999, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. The board shall determine the amount of registration fees for a land surveyor and certification fees for a land-surveyor-in-training. ~~Except as provided under IC 25-21.5-8-7, the registration and renewal fee for a land surveyor may be not more than fifty dollars ($50) per year.~~

SECTION 42. IC 25-21.5-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. The board shall ~~determine the renewal fee and delinquent fee~~ **establish fees under IC 25-1-8.**

SECTION 43. IC 25-21.5-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) The board may adopt rules requiring a land surveyor to obtain continuing education for renewal of a certificate under this chapter.

(b) If the board adopts rules under this section, the rules must do the following:

(1) Establish a fee ~~of two dollars ($2)~~ for each hour of continuing education required after the certificate of registration was issued or renewed.

(2) Require that continuing education fees be paid when the land surveyor's certificate of registration is renewed.

(3) Establish procedures for approving an organization that provides continuing education.

(4) Require an organization that provides an approved continuing education program to supply the following information to the board not more than thirty (30) days after the course is presented:

(A) An alphabetical list of all land surveyors who attended the course.

(B) A certified statement of the hours to be credited to each land surveyor.

(c) If the board adopts rules under this section, the board may adopt rules to do the following:

(1) Allow private organizations to implement the continuing education requirement.

(2) Establish an inactive certificate of registration. If the board adopts rules establishing an inactive certificate, the board must adopt rules that:

(A) do not require the holder of an inactive certificate to obtain continuing education;

(B) prohibit the holder of an inactive certificate from practicing land surveying;

(C) establish requirements for reactivation of an inactive certificate; and

(D) do not require the holder of an inactive certificate to pay the registration and renewal fees required under IC 25-21.5-7-5.

SECTION 44. IC 25-28.5-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 22. (a) Every license or certificate of registration issued under ~~the provisions of~~ this chapter ~~shall expire two (2) years subsequent to the date of its issuance~~ **expires on a date established by the professional licensing agency under IC 25-1-6-4** and shall be renewed biennially thereafter upon payment of the required renewal fees.

(b) Applications for renewal shall be filed with the commission ~~on a~~ **in the** form **and manner** provided ~~therefore, no later than thirty (30) days prior to the expiration date of the licensee's or registrant's current license or certificate of registration~~ **by the commission.** The application shall be accompanied by the required renewal fee. The commission upon the receipt of the application for renewal and the required renewal fee, shall issue to the renewal applicant a license or certificate of registration in the category said applicant has previously held. **Unless a license is renewed, a license issued by the commission expires on the date specified by the licensing agency under IC 25-1-6-4.**

SECTION 45. IC 25-28.5-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 23. The fees to be charged by and paid to the commission by licensees for all licenses and license renewals thereof shall be established by the commission ~~under IC 25-1-8-2.~~ **under IC 25-1-8.**

SECTION 46. IC 25-28.5-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 24. (a) All fees collected by the commission shall be deposited with the treasurer of state to be deposited by ~~him~~ **the treasurer** in the **state** general fund. ~~of the state.~~

(b) All expenses of the commission shall be paid from the general fund upon appropriation being made therefor in the manner provided by law for the making of such appropriations.

SECTION 47. IC 25-28.5-2-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2.1. (a) At the time of initial licensure under this article, each licensee shall pay the ~~following fee~~ **fees established by the board under IC 25-1-8-2 for the following:**

(1) ~~Seventy-five dollars ($75) for~~ A plumbing contractor.

(2) ~~Thirty dollars ($30) for~~ A journeyman plumber.

(b) Fees collected under subsection (a) shall be placed in the plumbers recovery fund.

(c) The fee assessed under this section is in addition to any other fee under this article.

SECTION 48. IC 25-30-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) An application for license as a private detective must be on a form prescribed by the board accompanied by the license fee as ~~provided by this chapter.~~ **established by the board under IC 25-1-8.**

(b) The application shall be verified and shall include the following:

(1) The full name and business address of the applicant.

(2) The name under which the applicant intends to do business as a private detective.

(3) If the applicant is a person other than an individual, the full name and residence address of each of its members, partners, officers, and directors, and its managers.

(4) Other information, evidence, statements, or documents required by the board.

SECTION 49. IC 25-30-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16. (a) **Unless a license is renewed,** a license and the identification cards of the licensee's employees issued under this chapter expire ~~two (2) years from the date of issuance of the license.~~ **on a date specified by the professional licensing agency under IC 25-1-6-4 and expire biennially after the initial expiration date. An applicant for renewal shall pay the renewal fee set by the board under IC 25-1-8-2 on or before the renewal date specified by the professional licensing agency.**

(b) **If the holder of a license does not renew the license by the date specified by the professional licensing agency, the license expires and becomes invalid without any action taken by the board.**

(c) A licensee desiring a renewal license must:

(1) file an application for renewal at least thirty (30) days before the expiration of the licensee's license on a form as prescribed by the board; and

(2) meet the license renewal requirements determined by the board.

~~(c)~~ **(d)** A license may be reinstated within thirty (30) days after the expiration of the license if the applicant does the following:

(1) Files an application for renewal with the board.

(2) Meets the license requirements determined by the board.

(3) Pays ~~the license and delinquent fees~~ **a fee as required under IC 25-1-8-7.**

~~(d)~~ **(e)** Employee identification cards issued under this chapter expire at the same time as the license referred to in subsection (a).

SECTION 50. IC 25-30-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 17. (a) The board shall charge and the licensing agency shall collect the ~~following private detective license~~ fees **established by the board under IC 25-1-8.**

~~(1) For issuance or renewal of a private detective license, a fee of one hundred fifty dollars ($150).~~

~~(2) For identification cards for unlicensed employees issued under section 10(d) of this chapter, a fee of:~~

~~(A) ten dollars ($10); or~~

~~(B) five dollars ($5) if application for the identification card is made in the second year of the licensee's license.~~

~~(3) For reinstatement of a license referred to in section 16(c) of this chapter, a delinquent fee of seventy-five dollars ($75).~~

(b) All fees collected under this chapter shall go into the general fund and shall be accounted for by the licensing agency.

~~(c) A license fee shall not be refunded unless a showing is made of ineligibility to receive the license by failure to meet the requirements of this chapter, or by a showing of mistake, inadvertence, or error in the collection of the fee.~~

SECTION 51. IC 25-31-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. (a) The examination required of all applicants for registration as a professional engineer shall be a written examination which shall be divided into the following two (2) parts, each of eight (8) hours duration:

(1) Engineering fundamentals.

(2) Principles and practice of engineering.

The board may adopt rules under IC 4-22-2 establishing additional examination requirements.

(b) The engineering fundamentals portion of the examination shall be designed to test the applicant's knowledge of mathematics and the physical and engineering sciences. The standards of proficiency required shall approximate that attained by graduation in an approved four (4) year engineering curriculum.

(c) The principles and practice of **the** engineering portion of the examination shall be designed primarily to test the applicant's understanding of, and judgment and ability to apply correctly, the principles of:

(1) mathematics;

(2) the physical sciences;

(3) the engineering sciences; and

(4) engineering design analysis and synthesis;

to the practice of professional engineering. A part of the examination may be designed to test the applicant's knowledge and understanding of the ethical, economic and legal principles relating to the practices of professional engineering.

(d) An applicant for registration as a professional engineer who holds an engineering intern certificate issued in Indiana or in any other state or territory having equivalent standards may be exempted from the engineering fundamentals portion of the examination.

(e) An applicant must successfully pass the engineering fundamentals portion of the examination before taking the principles and practice portion of the examination.

(f) Examinations shall be held at times and places as determined by the board at least two (2) times each year. Examinations for certification as an engineering intern may be held separately from the examinations for registration as a professional engineer.

(g) An applicant for registration as a professional engineer who is presently registered in another state or territory may be assigned a written examination as the board deems necessary to meet the requirements of this chapter.

(h) An applicant for registration as a professional engineer who fails in the first examination may request to be readmitted for a second examination at either of the next two (2) regularly scheduled examinations. Upon application and at the discretion of the board, an applicant who misses:

(1) the originally scheduled examination; or

(2) the next two (2) regularly scheduled examinations;

may be given permission to appear for another regularly scheduled examination. The amount of fee to be paid for each examination shall be determined by the board under IC 25-1-8-2.

(i) If an applicant who has failed ~~two (2)~~ **three (3)** or more examinations reapplies and submits evidence of acquiring additional knowledge for the examination the board may give the applicant approval to take subsequent examinations.

SECTION 52. IC 25-31-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 15. (a) The board shall issue a certificate of registration, upon the payment of the fee prescribed ~~in this chapter~~ **by the board under IC 25-1-8-2,** to any applicant who, in the opinion of the board, has satisfactorily met all requirements of this chapter. In the case of a professional engineer, the certificate shall authorize the practice of "professional engineering". The certificate of registration shall:

(1) show the full name of the registrant;

(2) bear a serial number and date; and

(3) be signed by ~~each member under the seal~~ **a designee** of the board.

The issuance of any certificate of registration by the board under this chapter is evidence that the individual named on the certificate is entitled to all the rights and privileges of a registered professional engineer from the date on the certificate until it expires or is revoked.

(b) The board shall issue a certificate of enrollment upon the payment of the certificate fee prescribed ~~in this chapter~~ **by the board under IC 25-1-8-2** to any applicant who, in the opinion of the board, has satisfactorily met all of the requirements of this chapter. In the case of an engineering intern, the certificate shall state that the applicant has successfully passed the examination in engineering fundamentals and has been enrolled as an engineering intern. The

certificate of enrollment shall:

(1) show the full name of the enrollee;

(2) bear a serial number and date; and

(3) be signed by the director of the licensing agency.

The issuance of a certificate of enrollment by the board is evidence that the individual named on the certificate is entitled to all the rights and privileges of an engineering intern while the certificate remains unrevoked or until it expires.

SECTION 53. IC 25-31-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 17. ~~(a) The biennial period for which renewals are to be made shall extend from the first day of August of an even-numbered year to the last day of July of the next even-numbered year.~~

~~(b) A new registrant whose certificate bears a date during the first twelve (12) months of a biennial renewal period is required to pay one-half (1/2) of the biennial renewal fee in addition to and at the time of the payment of the certificate fee to validate the certificate for the last twelve (12) months of the biennial renewal period.~~

~~(c) All certificates of registration expire on the last day of July in each even-numbered year and are invalid from that date, unless renewed. The secretary of the board shall send a renewal bill notice by mail to every person registered and in good standing and to those holding invalid certificates who are delinquent not more than two (2) years. The notice must comply with the provisions of IC 25-1-2-6(c) and include the amount of the renewal fee and delinquent fee, if any, to validate the certificate for the succeeding biennial period. The renewal fee and delinquent fee shall be determined by the board under IC 25-1-8-2.~~

(a) Unless a license is renewed, a license issued under this chapter expires on a date specified by the professional licensing agency under IC 25-1-6-4 and expires biennially after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the board and pay the renewal fee established by the board under IC 25-1-8-2 on or before the renewal date specified by the professional licensing agency.

(b) If the holder of a license does not renew the license by the date specified by the professional licensing agency, the license expires and becomes invalid without the board taking any action.

~~(d)~~ **(c)** The failure on the part of a registrant to renew a certificate does not deprive the registrant of the right of renewal until the registrant's certificate has remained invalid during two (2) biennial renewal periods if the registrant pays the appropriate delinquent and renewal fees. After two (2) successive biennial renewal periods have elapsed renewal shall be denied.

SECTION 54. IC 25-31-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 21. The board may, upon application and payment of a fee established by the board in the board's rules, issue a certificate of registration as a professional engineer to an individual who holds a valid certificate of registration as a professional engineer, issued to the applicant by the proper authority of any state or territory or possession of the United States if the requirements for registration of professional engineers that the certificate of registration was issued under do not conflict with the provisions of this chapter. In determining the qualifications of an applicant, the board may accept the verified professional record of the applicant that is certified by the National Council of Examiners for Engineers and Surveyors. **However, an individual meets the experience requirement under section 12 of this chapter if the individual:**

(1) has at least three (3) years of engineering work experience after the individual graduates from an approved engineering curriculum but before the individual successfully passes an examination required under section 14 of this chapter; and

(2) has been registered or licensed as a professional engineer in another state for at least ten (10) years.

SECTION 55. IC 25-34.1-3-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3.1. (a) To obtain a salesperson license, an individual must:

(1) be at least eighteen (18) years of age before applying for a license and must not have a conviction for:

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

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

(C) a crime that indicates the individual has the propensity to endanger the public.

(2) have successfully completed courses in the principles, practices, and law of real estate, totaling eight (8) semester credit hours, or their equivalent, as a student at an accredited college or university or have successfully completed an approved salesperson course as provided in IC 25-34.1-5-5(a);

(3) apply for a license by submitting the application fee prescribed by the commission and an application containing the name, address, and age of the applicant, the name under which the applicant intends to conduct business, the principal broker's address where the business is to be conducted, proof of compliance with subdivision (2), and any other information the commission requires;

(4) pass a written examination prepared and administered by the commission or its duly appointed agent; and

(5) submit not more than one hundred twenty (120) days after passing the written examination under subdivision (4):

(A) the license fee ~~of twenty-five dollars ($25);~~ **established by the commission under IC 25-1-8-2;** and

(B) a sworn certification of a principal broker that the principal broker intends to associate with the applicant and maintain that association until notice of termination of the association is given to the commission.

(b) Upon the applicant's compliance with the requirements of subsection (a), the commission shall:

(1) issue a wall certificate in the name of the salesperson to the principal broker who certified the applicant's association with the principal broker; and

(2) issue to the salesperson a pocket identification card which certifies that the salesperson is licensed and indicates the expiration date of the license and the name of the principal broker.

(c) Notice of passing the commission examination serves as a temporary permit to act as a salesperson as soon as the applicant sends, by registered or certified mail with return receipt requested, the license fee and certification as prescribed in subsection (a)(5)(A) and (a)(5)(B). The temporary permit expires the earliest of the following:

(1) The date the license is issued.

(2) The date the applicant's association with the certifying principal broker is terminated.

The temporary permit may not be renewed, extended, reissued, or otherwise effective for any association other than with the initial certifying principal broker.

(d) A salesperson shall:

(1) act under the auspices of the principal broker responsible for that salesperson's conduct under this article;

(2) be associated with only one (1) principal broker;

(3) maintain evidence of licensure in the office, branch office, or sales outlet of the principal broker;

(4) advertise only in the name of the principal broker, with the principal broker's name in letters of advertising larger than that of the salesperson's name; and

(5) not maintain any real estate office apart from that office provided by the principal broker.

(e) Upon termination of a salesperson's association with a principal broker, the salesperson's license shall be returned to the commission within five (5) business days. The commission shall reissue the license to any principal broker whose certification, as prescribed in subsection (a)(5)(B), is filed with the commission, and the commission shall issue a new identification card to the salesperson reflecting that change.

(f) **Unless a license is renewed,** a salesperson license expires ~~at midnight, December 31, of the next odd-numbered year following the year in which the license is issued or last renewed, unless the licensee renews the license prior to expiration by payment of a biennial license fee of twenty-five dollars ($25). An expired license may be reinstated within one hundred twenty (120) days after expiration, by payment of all unpaid license fees together with twenty dollars ($20). If the license is renewed within eighteen (18) months, but more than one~~

~~hundred twenty (120) days, after expiration, the licensee must pay a late fee of one hundred dollars ($100) plus any unpaid license fees.~~ **on a date specified by the professional licensing agency under IC 25-1-6-4 and expires biennially after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the board and pay the renewal fee set by the board under IC 25-1-8-2 on or before the renewal date specified by the professional licensing agency. If the holder of a license does not renew the license by the date specified by the professional licensing agency, the license expires and becomes invalid without the board taking any action.** If a salesperson fails to reinstate a license within eighteen (18) months after expiration, a license may not be issued unless that salesperson again complies with the requirements of subsection (a)(3), (a)(4), and (a)(5).

(g) A salesperson license may be issued to an individual who is not yet associated with a principal broker but who otherwise meets the requirements of subsection (a). A license issued under this subsection shall be held by the commission in an unassigned status until the date the individual submits the certification of a principal broker required by subsection (a)(5). If the individual does not submit the application for licensure within one hundred twenty (120) days after passing the commission examination, the commission shall void the application and may not issue a license to that applicant unless the applicant again complies with the requirements of subsection (a)(4) through (a)(5).

(h) If an individual holding a salesperson license is not associated with a principal broker for two (2) successive renewal periods, the commission shall notify the individual in writing that the individual's license will become void if the individual does not associate with a principal broker within thirty (30) days from the date the notification is mailed. A void license may not be renewed.

SECTION 56. IC 25-34.1-3-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4.1. (a) To obtain a broker license, an individual must:

(1) be at least eighteen (18) years of age before applying for a license and must not have a conviction for:

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

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

(C) a crime that indicates the individual has the propensity to endanger the public.

(2) have satisfied section 3.1(a)(2) of this chapter and have had continuous active experience for one (1) year immediately preceding the application as a licensed salesperson in Indiana; however, this one (1) year experience requirement may be waived by the commission upon a finding of equivalent experience;

(3) have successfully completed an approved broker course of study as prescribed in IC 25-34.1-5-5(b);

(4) apply for a license by submitting the application fee prescribed by the commission and an application specifying the name, address, and age of the applicant, the name under which the applicant intends to conduct business, the address where the business is to be conducted, proof of compliance with subdivisions (2) and (3), and any other information the commission requires;

(5) pass a written examination prepared and administered by the commission or its duly appointed agent; and

(6) within one hundred twenty (120) days after passing the commission examination, submit the license fee ~~of fifty dollars ($50).~~ **established by the commission under IC 25-1-8-2.** If an individual applicant fails to file a timely license fee, the commission shall void the application and may not issue a license to that applicant unless that applicant again complies with the requirements of subdivisions (4) and (5) and this subdivision.

(b) To obtain a broker license, a partnership must:

(1) have as partners only individuals who are licensed brokers;

(2) have at least one (1) partner who is a resident of Indiana;

(3) cause each employee of the partnership who acts as a broker or salesperson to be licensed; and

(4) submit the license fee ~~of fifty dollars ($50)~~ **established by the commission under IC 25-1-8-2** and an application setting forth the name and residence address of each partner and the information prescribed in subsection (a)(4).

(c) To obtain a broker license, a corporation must:

(1) have a licensed broker residing in Indiana who is either an officer of the corporation or, if no officer resides in Indiana, the highest ranking corporate employee in Indiana with authority to bind the corporation in real estate transactions;

(2) cause each employee of the corporation who acts as a broker or salesperson to be licensed; and

(3) submit the license fee ~~of fifty dollars ($50),~~ **established by the commission under IC 25-1-8-2 and** an application setting forth the name and residence address of each officer and the information prescribed in subsection (a)(4), a copy of the certificate of incorporation, and a certificate of good standing of the corporation issued by the secretary of state of Indiana.

(d) To obtain a broker license, a limited liability company must:

(1) if a member-managed limited liability company:

(A) have as members only individuals who are licensed brokers; and

(B) have at least one (1) member who is a resident of Indiana; or

(2) if a manager-managed limited liability company, have a licensed broker residing in Indiana who is either a manager of the company or, if no manager resides in Indiana, the highest ranking company officer or employee in Indiana with authority to bind the company in real estate transactions;

(3) cause each employee of the limited liability company who acts as a broker or salesperson to be licensed; and

(4) submit the license fee ~~of fifty dollars ($50)~~ **established by the commission under IC 25-1-8-2** and an application setting forth the information prescribed in subsection (a)(4), together with:

(A) if a member-managed company, the name and residence address of each member; or

(B) if a manager-managed company, the name and residence address of each manager, or of each officer if the company has officers.

(e) Licenses granted to partnerships, corporations, and limited liability companies are issued, expire, are renewed, and are effective on the same terms as licenses granted to individual brokers, except as provided in subsection (h), and except that expiration or revocation of the license of:

(1) any partner in a partnership or all individuals in a corporation satisfying subsection (c)(1); or

(2) a member in a member-managed limited liability company or all individuals in a manager-managed limited liability company satisfying subsection (d)(2);

terminates the license of that partnership, corporation, or limited liability company.

(f) Upon the applicant's compliance with the requirements of subsection (a), (b), or (c), the commission shall issue the applicant a broker license and an identification card which certifies the issuance of the license and indicates the expiration date of the license. The license shall be displayed at the broker's place of business.

(g) Notice of passing the commission examination serves as a temporary permit for an individual applicant to act as a broker as soon as the applicant sends, by registered or certified mail with return receipt requested, a timely license fee as prescribed in subsection (a)(6). The temporary permit expires the earlier of one hundred twenty (120) days after the date of the notice of passing the examination or the date a license is issued.

(h) A broker license expires, for individuals, at midnight, December 31 and, for corporations, partnerships, and limited liability companies at midnight, June 30 of the next even-numbered year following the year in which the license is issued or last renewed, unless the licensee renews the license prior to expiration by payment of a biennial license fee ~~of fifty dollars ($50)~~ **established by the board under IC 25-1-8-2.** An expired license may be reinstated ~~within one hundred twenty (120) days~~ after expiration by payment of ~~all unpaid license fees together with twenty dollars ($20). If the license is renewed within eighteen (18) months, but more than one hundred twenty (120) days, after expiration, the licensee must pay a late fee of one hundred dollars ($100) plus any unpaid license fees~~

the fees established under IC 25-1-8-7. If a broker fails to reinstate a license within eighteen (18) months after expiration, a license may not be issued unless the broker again complies with the requirements of subsection (a)(4), (a)(5), and (a)(6).

(i) A partnership, corporation, or limited liability company may not be a broker-salesperson except as authorized in IC 23-1.5. An individual broker who associates as a broker-salesperson with a principal broker shall immediately notify the commission of the name and business address of the principal broker and of any changes of principal broker that may occur. The commission shall then change the address of the broker-salesperson on its records to that of the principal broker.

SECTION 57. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2004]: IC 25-1-2-9; IC 25-1-6-5.5; IC 25-1-11-9.5; IC 25-21.5-8-3.

SECTION 58. [EFFECTIVE JULY 1, 2004] **(a) This SECTION applies to the entities listed in IC 25-1-6-3, as amended by this act.**

(b) Notwithstanding the requirement under this act that an entity described in subsection (a) must adopt fees, a fee charged by an entity on June 30, 2004, continues in effect until the fee is changed by a rule adopted by the entity. An entity described in subsection (a) must adopt a rule described in this SECTION before January 1, 2005.

(c) This SECTION expires July 1, 2005.

Renumber all SECTIONS consecutively.

(Reference is to EHB 1151 as reprinted February 26, 2004.)

MAHERN	MILLER
RICHARDSON	BREAUX
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1055–1; filed March 4, 2004, at 4:06 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 1055 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 state and local administration.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-3.1-19-3, AS AMENDED BY P.L.224-2003, SECTION 196, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Subject to section 5 of this chapter, a taxpayer is entitled to a credit against the taxpayer's state and local tax liability for a taxable year if the taxpayer makes a qualified investment in that year.

(b) The amount of the credit to which a taxpayer is entitled is the qualified investment made by the taxpayer during the taxable year multiplied by twenty-five percent (25%).

(c) A taxpayer may assign any part of the credit to which the taxpayer is entitled under this chapter to a lessee of property redeveloped or rehabilitated under section 2 of this chapter. A credit that is assigned under this subsection remains subject to this chapter.

(d) An assignment under subsection (c) must be in writing and both the taxpayer and the lessee must report the assignment on their state tax return for the year in which the assignment is made, in the manner prescribed by the department. The taxpayer may not receive value in connection with the assignment under subsection (c) that exceeds the value of the part of the credit assigned.

(e) If a pass through entity is entitled to a credit under this chapter but does not have state and local tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

The credit provided under this subsection is in addition to a tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and an individual who is a shareholder, partner, or member of the pass through entity may not claim more than one (1) credit for the same investment.

(f) A taxpayer that is otherwise entitled to a credit under this chapter for a taxable year may claim the credit regardless of whether any income tax incremental amount or gross retail incremental amount has been:

(1) deposited in the incremental tax financing fund established for the community revitalization enhancement district; or

(2) allocated to the district.

SECTION 2. IC 6-3.1-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) ~~Except as provided in subsection (b),~~ A taxpayer is not entitled to claim the credit provided by this chapter to the extent that the taxpayer substantially reduces or ceases its operations in Indiana in order to relocate them within the district.

~~(b) Notwithstanding subsection (a), a taxpayer's substantial reduction or cessation of operations in Indiana in order to relocate operations to a district does not make a taxpayer ineligible for a credit under this chapter if: (1)~~

Determinations under this section shall be made by the department. The department shall adopt a proposed order concerning a taxpayer's eligibility for the credit based on subsection (b) and the following criteria:

(1) A site-specific economic activity, including sales, leasing, service, manufacturing, production, storage of inventory, or any activity involving permanent full-time or part-time employees, shall be considered a business operation.

(2) With respect to an operation located outside the district (referred to in this section as a "nondistrict operation"), any of the following that occurs during the twelve (12) months before the completion of the physical relocation of all or part of the activity described in subdivision (1) from the nondistrict operation to the district as compared with the twelve (12) months before that twelve (12) months shall be considered a substantial reduction:

(A) A reduction in the average number of full-time or part-time employees of the lesser of one hundred (100) employees or twenty-five percent (25%) of all employees.

(B) A twenty-five percent (25%) reduction in the average number of goods manufactured or produced.

(C) A twenty-five percent (25%) reduction in the average value of services provided.

(D) A ten percent (10%) reduction in the average value of stored inventory.

(E) A twenty-five percent (25%) reduction in the average amount of gross income.

(b) Notwithstanding subsection (a), a taxpayer that would otherwise be disqualified under subsection (a) is eligible for the credit provided by this chapter if the taxpayer meets at least one (1) of the following conditions:

(1) The taxpayer relocates all or part of its nondistrict operation for any of the following reasons:

(A) The lease on property necessary for the nondistrict operation has been involuntarily lost through no fault of the taxpayer.

(B) The space available at the location of the nondistrict operation cannot accommodate planned expansion needed by the taxpayer.

(C) The building for the nondistrict operation has been certified as uninhabitable by a state or local building authority.

(D) The building for the nondistrict operation has been totally destroyed through no fault of the taxpayer.

(E) The renovation and construction costs at the location of the nondistrict operation are more than one and one-half (1 1/2) times the costs of purchase, renovation, and construction of a facility in the district, as certified by three (3) independent estimates.

(F) The taxpayer had existing operations in the district and ~~(2)~~ the **nondistrict** operations relocated to the district are an expansion of the taxpayer's operations in the district.

A taxpayer is eligible for benefits and incentives under clause (C) or (D) only if renovation and construction costs at the location of the nondistrict operation are more than one and one-half (1 1/2) times the cost of purchase, renovation, and construction of a facility in the district. These costs must be certified by three (3) independent estimates.

(2) The taxpayer has not terminated or reduced the pension or health insurance obligations payable to employees or former employees of the nondistrict operation without the consent of the employees.

(c) The department shall cause to be delivered to the taxpayer and to any person who testified before the department in favor of disqualification of the taxpayer a copy of the department's proposed order. The taxpayer and these persons shall be considered parties for purposes of this section.

(d) A party who wishes to appeal the proposed order of the department shall, within ten (10) days after the party's receipt of the proposed order, file written objections with the department. The department shall immediately forward copies of the objections to the director of the budget agency and the director of the department of commerce. A hearing panel composed of the commissioner of the department or the commissioner's designee, the director of the budget agency or the director's designee, and the director of the department of commerce or the director's designee shall set the objections for oral argument and give notice to the parties. A party at its own expense may cause to be filed with the hearing panel a transcript of the oral testimony or any other part of the record of the proceedings. The oral argument shall be on the record filed with the hearing panel. The hearing panel may hear additional evidence or remand the action to the department with instructions appropriate to the expeditious and proper disposition of the action. The hearing panel may adopt the proposed order of the department, may amend or modify the proposed order, or may make such order or determination as is proper on the record. The affirmative votes of at least two (2) members of the hearing panel are required for the hearing panel to take action on any measure. The taxpayer may appeal the decision of the hearing panel to the tax court in the same manner that a final determination of the department may be appealed under IC 33-3-5.

(e) If no objections are filed, the department may adopt the proposed order without oral argument.

~~(c)~~ **(f)** A determination that a taxpayer is not entitled to the credit provided by this chapter as a result of a substantial reduction or cessation of operations applies to credits that would otherwise arise in the taxable year in which the substantial reduction or cessation occurs and in all subsequent years. ~~Determinations under this section shall be made by the department of state revenue.~~

SECTION 3. IC 6-3.5-7-22.5, AS AMENDED BY P.L.224-2003, SECTION 258, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 22.5. (a) This section applies to a county having a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-seven thousand five hundred (27,500).

(b) In addition to the rates permitted by section 5 of this chapter, the county council may impose the county economic development income tax at a rate of twenty-five hundredths percent (0.25%) on the adjusted gross income of county taxpayers if the county council makes the finding and determination set forth in subsection (c).

(c) In order to impose the county economic development income tax as provided in this section, the county council must adopt an ordinance finding and determining that revenues from the county economic development income tax are needed to pay the costs of:

(1) financing, **constructing, acquiring, renovating, and equipping the county courthouse,** and **financing and** renovating the former county hospital for additional office space, educational facilities, nonsecure juvenile facilities, and other county functions, including the repayment of bonds issued, or leases entered into for **constructing, acquiring, renovating, and equipping the county courthouse and for** renovating the former county hospital for additional office space, educational facilities, nonsecure juvenile facilities, and other county functions;

(2) financing constructing, acquiring, renovating, and equipping buildings for a volunteer fire department (as defined in IC 36-8-12-2) that provides services in any part of the county; and

(3) financing constructing, acquiring, and renovating firefighting apparatus or other related equipment for a volunteer fire department (as defined in IC 36-8-12-2) that provides services in any part of the county.

~~The revenues from the county economic development income tax imposed under this section may not be used to pay the costs of financing constructing, acquiring, renovating, and equipping the county courthouse.~~

(d) If the county council makes a determination under subsection (c), the county council may adopt a tax rate under subsection (b). The tax rate may not be imposed at a rate or for a time greater than is necessary to pay for the purposes described in this section.

(e) The county treasurer shall establish a county option tax revenue fund to be used only for the purposes described in this section. County economic development income tax revenues derived from the tax rate imposed under this section shall be deposited in the county option tax revenue fund before making a certified distribution under section 11 of this chapter.

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

(1) may only be used for the purposes described in this section;

(2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and

(3) may be pledged to the repayment of bonds issued, or leases entered into, for the purposes described in subsection (c).

(g) A county described in subsection (a) possesses:

(1) unique fiscal challenges to finance the operations of county government due to the county's ongoing obligation to repay amounts received by the county due to an overpayment of the county's certified distribution under IC 6-3.5-1.1-9 for a prior year; and

(2) unique capital financing needs related to the purposes described in subsection (c).

SECTION 4. IC 36-7-13-2.4, AS AMENDED BY P.L.178-2002, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2.4. Except as provided in section 10.7(c) of this chapter, as used in this chapter, "gross retail base period amount" means:

(1) the aggregate amount of state gross retail and use taxes remitted under IC 6-2.5 by the businesses operating in the territory comprising a district during the full state fiscal year that precedes the date on which:

(A) an advisory commission on industrial development adopted a resolution designating the district, in the case of a district that is not described in section 12(c) of this chapter; or

(B) the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter; ~~or~~

(2) an amount equal to:

(A) the aggregate amount of state gross retail and use taxes remitted:

(i) under IC 6-2.5 by the businesses operating in the territory comprising a district; and

(ii) during the month in which an advisory commission on industrial development adopted a resolution designating the district; multiplied by

(B) twelve (12);

in the case of a district that is described in section 12(c) of this chapter; **or**

(3) an amount equal to the amount determined under subdivision (1) or (2); plus:

(A) the aggregate amount of state gross retail and use taxes remitted:

(i) under IC 6-2.5 by the businesses operating in the territory added to the district; and
(ii) during the month in which a petition to modify the district's boundaries is approved by the budget agency under section 12.5 of this chapter; multiplied by
(B) twelve (12);
in the case of a district modified under section 12.5 of this chapter.

SECTION 5. IC 36-7-13-3.2, AS AMENDED BY P.L.178-2002, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3.2. Except as provided in section 10.7(d) of this chapter, as used in this chapter, "income tax base period amount" means:

(1) the aggregate amount of state and local income taxes paid by employees employed in the territory comprising a district with respect to wages and salary earned for work in the district for the state fiscal year that precedes the date on which:
(A) an advisory commission on industrial development adopted a resolution designating the district, in the case of a district that is not described in section 12(c) of this chapter; or
(B) the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter; ~~or~~
(2) an amount equal to:
(A) the aggregate amount of state and local income taxes paid by employees employed in the territory comprising a district with respect to wages and salary earned for work in the district during the month in which an advisory commission on industrial development adopted a resolution designating the district; multiplied by
(B) twelve (12);
in the case of a district that is described in section 12(c) of this chapter; **or**
(3) an amount equal to the amount determined under subdivision (1) or (2); plus:
(A) the aggregate amount of state and local income taxes paid by employees employed in the territory added to the district with respect to wages and salary earned for work in the modified district during the month in which a petition to modify the district's boundaries is approved by the budget agency under section 12.5 of this chapter; multiplied by
(B) twelve (12);
in the case of a district modified under section 12.5 of this chapter.

SECTION 6. IC 36-7-13-10.5, AS AMENDED BY P.L.178-2002, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10.5. (a) This section applies only to a county that meets the following conditions:

(1) The county's annual rate of unemployment has been above the average annual statewide rate of unemployment during at least three (3) of the preceding five (5) years.
(2) The median income of the county has:
(A) declined over the preceding ten (10) years; or
(B) has grown at a lower rate than the average annual statewide growth in median income during at least three (3) of the preceding five (5) years.
(3) The population of the county (as determined by the legislative body of the county) has declined over the preceding ten (10) years.

(b) Except as provided in section 10.7 of this chapter, in a county described in subsection (a), the legislative body of the county may adopt an ordinance designating an unincorporated part or unincorporated parts of the county as a district, and the legislative body of a municipality located within the county may adopt an ordinance designating a part or parts of the municipality as a district, if the legislative body finds all of the following:

(1) The area to be designated as a district contains a building or buildings that:
(A) have a total of at least fifty thousand (50,000) square feet of usable interior floor space; and
(B) are vacant or will become vacant due to the relocation of the employer or the cessation of operations on the site by the employer.
(2) Significantly fewer persons are employed in the area to be designated as a district than were employed in the area during the year that is ten (10) years previous to the current year.
(3) There are significant obstacles to redevelopment in the area due to any of the following problems:
(A) Obsolete or inefficient buildings.
(B) Aging infrastructure or inefficient utility services.
(C) Utility relocation requirements.
(D) Transportation or access problems.
(E) Topographical obstacles to redevelopment.
(F) Environmental contamination or remediation.

(c) A legislative body adopting an ordinance under subsection (b) shall designate the duration of the district. However, ~~the duration may not exceed~~ **a district must terminate not later than** fifteen (15) years ~~from the time of designation.~~ **after the income tax incremental amount or gross retail incremental amount is first allocated to the district.**

(d) Except as provided in section 10.7 of this chapter, upon adoption of an ordinance designating a district, the legislative body shall submit the ordinance to the budget committee for review and recommendation to the budget agency. **If the budget agency fails to take action on an ordinance designating a district within one hundred twenty (120) days after the date that the ordinance is submitted to the budget committee, the designation of the district by the ordinance is considered approved.**

(e) Except as provided in section 10.7 of this chapter, when considering the designation of a district by an ordinance adopted under this section, the budget committee and the budget agency must make the following findings before approving the designation of the district:

(1) The area to be designated as a district meets the conditions necessary for the designation as a district.
(2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(f) Except as provided in section 10.7 of this chapter, the income tax incremental amount and the gross retail incremental amount may not be allocated to the district until ~~the budget agency approves~~ the designation of the district by the local ordinance **is approved under this section.**

SECTION 7. IC 36-7-13-12, AS AMENDED BY P.L.224-2003, SECTION 238, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) If a municipal or county executive has submitted an application to an advisory commission on industrial development requesting that an area be designated as a district under this chapter and the advisory commission has compiled and prepared the information required under section 11 of this chapter concerning the area, the advisory commission may adopt a resolution designating the area as a district if it makes the findings described in subsection (b), (c), (d), or (e). In a county described in subsection (c), an advisory commission may designate more than one (1) district under subsection (c).

(b) For an area located in a county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

(1) The area contains a building or buildings:
(A) with at least one million (1,000,000) square feet of usable interior floor space; and
(B) that is or are vacant or will become vacant due to the relocation of an employer.
(2) At least one thousand (1,000) fewer persons are employed in the area than were employed in the area during the year that is ten (10) years previous to the current year.
(3) There are significant obstacles to redevelopment of the area due to any of the following problems:
(A) Obsolete or inefficient buildings.
(B) Aging infrastructure or inefficient utility services.
(C) Utility relocation requirements.
(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.
(F) Environmental contamination.
(4) The unit has expended, appropriated, pooled, set aside, or pledged at least one hundred thousand dollars ($100,000) for purposes of addressing the redevelopment obstacles described in subdivision (3).
(5) The area is located in a county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000).

(c) For a county having a population of more than one hundred eighteen thousand (118,000) but less than one hundred twenty thousand (120,000), an advisory commission may adopt a resolution designating not more than two (2) areas as districts. An advisory commission may designate an area as a district only after finding the following:
(1) The area meets either of the following conditions:
(A) The area contains a building with at least seven hundred ninety thousand (790,000) square feet, and at least eight hundred (800) fewer people are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.
(B) The area contains a building with at least ~~four hundred forty thousand (440,000)~~ **three hundred eighty-six thousand (386,000)** square feet, and at least four hundred (400) fewer people are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.
(2) The area is located in or is adjacent to an industrial park.
(3) There are significant obstacles to redevelopment of the area due to any of the following problems:
(A) Obsolete or inefficient buildings.
(B) Aging infrastructure or inefficient utility services.
(C) Utility relocation requirements.
(D) Transportation or access problems.
(E) Topographical obstacles to redevelopment.
(F) Environmental contamination.
(4) The area is located in a county having a population of more than one hundred eighteen thousand (118,000) but less than one hundred twenty thousand (120,000).

(d) For an area located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:
(1) The area contains a building or buildings:
(A) with at least one million five hundred thousand (1,500,000) square feet of usable interior floor space; and
(B) that is or are vacant or will become vacant.
(2) At least eighteen thousand (18,000) fewer persons are employed in the area at the time of application than were employed in the area before the time of application.
(3) There are significant obstacles to redevelopment of the area due to any of the following problems:
(A) Obsolete or inefficient buildings.
(B) Aging infrastructure or inefficient utility services.
(C) Utility relocation requirements.
(D) Transportation or access problems.
(E) Topographical obstacles to redevelopment.
(F) Environmental contamination.
(4) The unit has expended, appropriated, pooled, set aside, or pledged at least one hundred thousand dollars ($100,000) for purposes of addressing the redevelopment obstacles described in subdivision (3).
(5) The area is located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

(e) For an area located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:
(1) The area contains a building or buildings:
(A) with at least eight hundred thousand (800,000) gross square feet; and
(B) having leasable floor space, at least fifty percent (50%) of which is or will become vacant.
(2) There are significant obstacles to redevelopment of the area due to any of the following problems:
(A) Obsolete or inefficient buildings as evidenced by a decline of at least seventy-five percent (75%) in their assessed valuation during the preceding ten (10) years.
(B) Transportation or access problems.
(C) Environmental contamination.
(3) At least four hundred (400) fewer persons are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.
(4) The area has been designated as an economic development target area under IC 6-1.1-12.1-7.
(5) The unit has appropriated, pooled, set aside, or pledged at least two hundred fifty thousand dollars ($250,000) for purposes of addressing the redevelopment obstacles described in subdivision (2).
(6) The area is located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(f) The advisory commission, or the county or municipal legislative body, in the case of a district designated under section 10.5 of this chapter, shall designate the duration of the district. ~~but the duration may not exceed~~ **However, a district must terminate not later than** fifteen (15) years ~~(at the time of designation).~~ **after the income tax incremental amount or gross retail incremental amount is first allocated to the district.**

(g) Upon adoption of a resolution designating a district, the advisory commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. **If the budget agency fails to take action on a resolution designating a district within one hundred twenty (120) days after the date that the resolution is submitted to the budget committee, the designation of the district by the resolution is considered approved.**

(h) When considering a resolution, the budget committee and the budget agency must make the following findings:
(1) The area to be designated as a district meets the conditions necessary for designation as a district.
(2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(i) The income tax incremental amount and the gross retail incremental amount may not be allocated to the district until ~~the budget agency approves~~ the resolution **is approved under this section.**

SECTION 8. IC 36-7-13-12.1, AS ADDED BY P.L.224-2003, SECTION 239, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12.1. (a) If the executive of a city described in section 10.1(a) of this chapter has submitted an application to an advisory commission on industrial development requesting that an area be designated as a district under this chapter and the advisory commission has compiled and prepared the information required under section 11 of this chapter concerning the area, the advisory commission may adopt a resolution designating the area as a district if it finds the following:
(1) That the redevelopment of the area in the district will:
(A) promote significant opportunities for the gainful employment of its citizens;
(B) attract a major new business enterprise to the area; or
(C) retain or expand a significant business enterprise within the area.
(2) That there are significant obstacles to redevelopment of the area due to any of the following problems:
(A) Obsolete or inefficient buildings.
(B) Aging infrastructure or ineffective utility services.
(C) Utility relocation requirements.
(D) Transportation or access problems.
(E) Topographical obstacles to redevelopment.
(F) Environmental contamination.
(G) Lack of development or cessation of growth.

(H) Deterioration of improvements or character of occupancy, age, obsolescence, or substandard buildings.

(I) Other factors that have impaired values or prevent a normal development of property or use of property.

(b) To address the obstacles identified in subsection (a)(2), the city may make expenditures for:

(1) the acquisition of land;
(2) interests in land;
(3) site improvements;
(4) infrastructure improvements;
(5) buildings;
(6) structures;
(7) rehabilitation, renovation, and enlargement of buildings and structures;
(8) machinery;
(9) equipment;
(10) furnishings;
(11) facilities;
(12) administration expenses associated with such a project;
(13) operating expenses; or
(14) substance removal or remedial action to the area.

(c) In addition to the findings described in subsection (a), an advisory commission must also find that the city described in section 10.1(a) of this chapter has expended, appropriated, pooled, set aside, or pledged at least two hundred fifty thousand dollars ($250,000) for purposes of addressing the redevelopment obstacles described in subsection (a)(2).

(d) The advisory commission shall designate the duration of the district. ~~but the duration may not exceed~~ **However, a district must terminate not later than** fifteen (15) years ~~(at the time of designation).~~ **after the income tax incremental amount or gross retail incremental amount is first allocated to the district under this chapter.**

(e) Upon adoption of a resolution designating a district, the advisory commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. **If the budget agency fails to take action on a resolution designating a district within one hundred twenty (120) days after the date that the resolution is submitted to the budget committee, the designation of the district by the resolution is considered approved.**

(f) When considering a resolution, the budget committee and the budget agency must make the following findings:

(1) The area to be designated as a district meets the conditions necessary for designation as a district.

(2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(g) The income tax incremental amount and the gross retail incremental amount may not be allocated to the district until the ~~budget agency approves the~~ resolution **is approved under this section.**

SECTION 9. IC 36-7-13-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 12.5. (a) An advisory commission on industrial development that designates a district under section 12 or 12.1 of this chapter or the legislative body of a county or municipality that adopts an ordinance designating a district under section 10.5 of this chapter may petition for permission to modify the boundaries of the district. The petition must be submitted to the budget committee for review and recommendation to the budget agency.**

(b) When considering a petition submitted under subsection (a), the budget committee and the budget agency must make the following findings:

(1) The area to be added to the district, if any, meets the conditions necessary for designation as a district under section 10.5, 12, or 12.1 of this chapter.

(2) The proposed modification of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(c) Upon approving a petition submitted under subsection (a), the budget agency shall certify the district's modified boundaries to the department of state revenue.

SECTION 10. IC 36-7-13-13, AS AMENDED BY P.L.224-2003, SECTION 240, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) If an advisory commission on industrial development designates a district under section 12 or 12.1 of this chapter or if the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter, the advisory commission, or the legislative body in the case of a district designated under section 10.5 of this chapter, shall send a certified copy of the resolution or ordinance designating the district to the department of state revenue by certified mail and shall include with the resolution a complete list of the following:

(1) Employers in the district.

(2) Street names and the range of street numbers of each street in the district.

(b) The advisory commission, or the legislative body in the case of a district designated under section 10.5 of this chapter, shall update the list:

(1) before July 1 of each year; **or**

(2) within fifteen (15) days after the date that the budget agency approves a petition to modify the boundaries of the district under section 12.5 of this chapter.

~~(b)~~ **(c)** Not later than sixty (60) days after receiving a copy of the resolution or ordinance designating a district, the department of state revenue shall determine the gross retail base period amount and the income tax base period amount.

(d) Not later than sixty (60) days after receiving a certification of a district's modified boundaries under section 12.5(c) of this chapter, the department shall recalculate the gross retail base period amount and the income tax base period amount for a district modified under section 12.5 of this chapter.

SECTION 11. IC 36-7-13-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. **(a)** Before the first business day in October of each year, the department shall calculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for each district designated under this chapter.

(b) Not later than sixty (60) days after receiving a certification of a district's modified boundaries under section 12.5(c) of this chapter, the department shall recalculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for a district modified under section 12.5 of this chapter.

SECTION 12. [EFFECTIVE JULY 1, 2004] **(a) An advisory commission or a legislative body that designated a community revitalization enhancement district before July 1, 2004, may adopt a resolution before July 1, 2005, to amend the duration of the district under IC 36-7-13-10.5, IC 36-7-13-12, or IC 36-7-13-12.1, all as amended by this act, if no income tax incremental amounts or gross retail incremental amounts have been:**

(1) deposited in the incremental tax financing fund established for the community revitalization enhancement district; or

(2) allocated to the district.

(b) If an advisory commission or a legislative body adopts a resolution under this SECTION to amend the duration of the district, the advisory commission or legislative body shall immediately send a certified copy of the resolution to the budget agency and the department of state revenue by certified mail.

(c) This SECTION expires January 1, 2006.

SECTION 13. [EFFECTIVE UPON PASSAGE] **(a) A religious institution may file an application under IC 6-1.1-11 before May 11, 2004, for exemption of one (1) or more parcels of real property for property taxes first due and payable in 2001 and 2002 if:**

(1) the religious institution did not file an application under IC 6-1.1-11 for exemption of the real property with respect to property taxes first due and payable in 2001 or 2002;

(2) the religious institution acquired the real property in 1999; and

(3) the real property was exempt from property taxes for

property taxes first due and payable in 2000.

(b) If a religious institution files an exemption application under subsection (a):

(1) the exemption application is subject to review and action by:

(A) the county property tax assessment board of appeals; and

(B) the department of local government finance; and

(2) the exemption determination made under subdivision (1) is subject to appeal;

in the same manner that would have applied if an application for exemption had been timely filed in 2000 and 2001.

(c) If an exemption application filed under subsection (a) is approved, the religious institution may file a claim under IC 6-1.1-26-1 with the county auditor for a refund for any payment of property taxes first due and payable in 2001 and for any payment of property taxes first due and payable in 2002, including any paid interest and penalties, with respect to the exempt property.

(d) Upon receiving a claim for a refund filed under subsection (c), the county auditor shall determine whether the claim is correct. If the county auditor determines that the claim is correct, the auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount of the refund due the claimant. No interest is payable on the refund.

(e) This SECTION expires January 1, 2005.

SECTION 14. [EFFECTIVE UPON PASSAGE] **(a) A religious institution may file an application under IC 6-1.1-11 before August 1, 2004, for exemption of one (1) or more parcels of real property for property taxes first due and payable in 2001, 2002, 2003, and 2004 if:**

(1) the religious institution did not file an application under IC 6-1.1-11 for exemption of the real property with respect to property taxes first due and payable in 2001, 2002, 2003, or 2004;

(2) the religious institution acquired the real property in 2000 from another religious institution;

(3) the real property was exempt from property taxes for property taxes first due and payable in 2000; and

(4) the religious institution:

(A) acquired the real property under a contract with a religious institution;

(B) has occupied the real property for each of the years described in subdivision (1); and

(C) has used the real property for its religious purposes in each of the years described in subdivision (1).

(b) If a religious institution files an exemption application under subsection (a):

(1) the exemption application is subject to review and action by:

(A) the county property tax assessment board of appeals; and

(B) the department of local government finance; and

(2) the exemption determination made under subdivision (1) is subject to appeal;

in the same manner that would have applied if an application for exemption had been timely filed in 2000, 2001, 2002, and 2003.

(c) The religious institution may file a claim under IC 6-1.1-26-1 with the county auditor for a refund for any payment of property taxes first due and payable in 2001, 2002, 2003, and 2004, including any paid interest and penalties, with respect to the exempt property if:

(1) an exemption application filed under subsection (a) is approved; and

(2) the religious institution has paid any property taxes in 2001, 2002, 2003, and 2004 attributable to the exempt property.

(d) Upon receiving a claim for a refund filed under subsection (c), the county auditor shall determine whether the claim is correct. If the county auditor determines that the claim is correct, the auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount of the refund due the claimant. No interest is payable on the refund.

(e) If:

(1) the religious institution incurred property tax liabilities in 2001, 2002, 2003, and 2004 because of the failure to properly apply for a property tax exemption for the religious institution's real property described in subsection (a); and

(2) an exemption application filed under subsection (a) is approved;

the county treasurer of the county in which the real property is located shall forgive the property taxes, penalties, and interest charged to the religious institution for the exempt property in 2001, 2002, 2003, and 2004.

(f) This SECTION expires January 1, 2005.

SECTION 15. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 6-1.1-1 apply throughout this SECTION.**

(b) As used in this SECTION, "taxpayer" means a nonprofit corporation that is an owner of land and improvements:

(1) that were owned, occupied, and used by the taxpayer to provide youths with the opportunity to play supervised and organized baseball or softball, or both, against other youths during the period preceding the assessment date in 2002 and continuing through the date that this SECTION is effective;

(2) for which a property tax liability was imposed for property taxes first due and payable in 2001, 2002, and 2003 that exceeded eighteen thousand dollars ($18,000), in the aggregate, and was paid in 2003;

(3) that would have qualified for an exemption under IC 6-1.1-10 from property taxes first due and payable in 2003 if the owner had complied with the filing requirements for the exemption in a timely manner; and

(4) that have been granted an exemption under IC 6-1.1-10 from property taxes first due and payable in 2004.

(c) The land and improvements described in subsection (b) are exempt under IC 6-1.1-10-16 from property taxes first due and payable in 2003, notwithstanding that the taxpayer failed to make a timely application for the exemption on or before May 15, 2002.

(d) The taxpayer may file claims with the county auditor for a refund for the amounts paid toward property taxes on the land and improvements described in subsection (b) that were billed to the taxpayer for property taxes first due and payable in 2001, 2002, and 2003. The claim must be filed as set forth in IC 6-1.1-26-1(1) through IC 6-1.1-26-1(3). The claims must present sufficient facts for the county auditor to determine whether the claimant is a person that meets the qualifications described in subsection (b) and the amount that should be refunded to the taxpayer.

(e) Upon receiving a claim filed under this SECTION, the county auditor shall determine whether the claim is correct. If the county auditor determines that the claim is correct, the county auditor shall submit the claim under IC 6-1.1-26-3 to the county board of commissioners for review. The only grounds for disallowing the claim under IC 6-1.1-26-4 are that the claimant is not a person that meets the qualifications described in subsection (b) or that the amount claimed is not the amount due to the taxpayer. If the claim is allowed, the county auditor shall , without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount due the claimant under this SECTION. The amount of the refund must equal the amount of the claim allowed. Notwithstanding IC 6-1.1-26-5, no interest is payable on the refund.

(f) This SECTION expires December 31, 2006.

SECTION 16. [EFFECTIVE JANUARY 1, 2001 (RETROACTIVE)] **(a) This SECTION applies notwithstanding the following:**

IC 6-1.1-3-7.5
IC 6-1.1-10-10
IC 6-1.1-10-13
IC 6-1.1-10-31.1
IC 6-1.1-11
IC 6-1.1-12.1-5.4
50 IAC 4.2-11
50 IAC 4.2-12-1
50 IAC 10-3

50 IAC 16.

(b) As used in this SECTION, "taxpayer" means a taxpayer in a county containing a consolidated city that filed:

(1) an original personal property tax return under IC 6-1.1-3 for the March 1, 2001, assessment date using a consolidated return, Form 103-C; and

(2) before March 1, 2003, a Form 133 petition for correction of an error with respect to the assessed value of the taxpayer's personal property on the March 1, 2001, assessment date.

(c) Before January 1, 2005, a taxpayer may file an amended personal property tax return for the March 1, 2001, assessment date.

(d) A taxpayer that files an amended personal property tax return under subsection (c) is entitled to the following exemptions for the March 1, 2001, assessment date:

(1) An exemption for an industrial waste control facility under IC 6-1.1-10-9.

(2) An exemption for an air pollution control system under IC 6-1.1-10-12.

(3) An exemption for tangible personal property under IC 6-1.1-10-29, as in effect on March 1, 2001.

(4) An exemption for tangible personal property under IC 6-1.1-10-29.3.

(5) An exemption for tangible personal property under IC 6-1.1-10-30.

(e) The amount of an exemption described in subsection (d)(1) or (d)(2) is based on the total cost of the industrial waste control facility or air pollution control system reported by the taxpayer on a Form 103-P that must be filed with the amended personal property tax return filed under subsection (c).

(f) The total amount of the exemptions described in subsection (d)(3) through (d)(5) is:

(1) the total cost of the taxpayer's finished goods reported on Schedule B, line 3, of the taxpayer's amended personal property tax return filed under subsection (c); multiplied by

(2) the ratio reported by the taxpayer on the Form 103-W filed with the taxpayer's amended personal property tax return.

(g) Before January 1, 2005, a taxpayer may file with the county auditor an application for a deduction from assessed valuation for new manufacturing equipment in an economic revitalization area for the March 1, 2001, assessment date. The taxpayer shall include all necessary attachments to the deduction application.

(h) If a taxpayer files an amended personal property tax return under subsection (c) and a deduction application described in subsection (g), the taxpayer is entitled to a credit in the amount of the taxes paid by the taxpayer on the remainder of:

(1) the assessed value reported on the taxpayer's original personal property tax return for the March 1, 2001, assessment date; minus

(2) the assessed value reported on the taxpayer's amended personal property tax return for the March 1, 2001, assessment date filed under subsection (c).

For purposes of calculating the credit allowed under this subsection, the assessed value reported on the taxpayer's amended personal property tax return filed under subsection (c) shall be reduced by the amount of the deduction claimed on the deduction application filed under subsection (g).

(i) The county auditor shall reduce the amount of the credit to which a taxpayer is entitled under subsection (h) by the amount of any property tax refunds paid:

(1) to the taxpayer for personal property taxes based on the March 1, 2001, assessment date; and

(2) before the date the taxpayer files an amended personal property tax return under subsection (c).

(j) Notwithstanding IC 6-1.1-26, the county auditor shall apply the full amount of the credit allowed under subsection (h) against the taxpayer's property tax liability for property taxes first due and payable in 2004. If the full amount of the credit allowed under subsection (h) exceeds the taxpayer's property tax liability for property taxes first due and payable in 2004, the county auditor shall apply the amount of the excess credit against the taxpayer's property tax liability in each succeeding year until the credit is exhausted. However, the county auditor may refund the remaining credit amount at any time before the credit is exhausted.

(k) A taxpayer is not required to file a separate application for the credit allowed under subsection (h).

(l) This SECTION expires January 1, 2007.

SECTION 17. [EFFECTIVE JULY 1, 2004] **IC 6-3.1-19-3, as amended by this act, applies only to taxable years beginning after December 31, 2004.**

SECTION 18. **An emergency is declared for this act.**

(Reference is to EHB 1055 as reprinted February 20,2004.)

MAYS	BORST
ESPICH	SIMPSON
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1365–1; filed March 4, 2004, at 4:10 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 1365 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 state and local administration and to make an appropriation.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-32-9-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 33. (a) The total prizes awarded for one (1) pull tab, punchboard, or tip board game may not exceed ~~two~~ **five** thousand dollars ~~($2,000).~~ **($5,000).**

(b) A single prize awarded for one (1) winning ticket in a pull tab, punchboard, or tip board game may not exceed ~~three~~ **five** hundred **ninety-nine** dollars ~~($300).~~ **($599).**

(c) The selling price for one (1) ticket for a pull tab, punchboard, or tip board game may not exceed one dollar ($1).

SECTION 2. IC 6-2.5-1-5, AS AMENDED BY P.L.257-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (b), "gross retail income" means the total gross receipts, of any kind or character, received in a retail transaction, including cash, credit, property, and services, for which tangible personal property is sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for:

(1) the seller's cost of the property sold;

(2) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

(3) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;

(4) delivery charges; **or**

~~(5) installation charges; or~~

~~(6)~~ **(5)** the value of exempt personal property given to the purchaser where taxable and exempt personal property have been bundled together and sold by the seller as a single product or piece of merchandise.

For purposes of subdivision (4), delivery charges are charges by the seller for preparation and delivery of the property to a location designated by the purchaser of property, including but not limited to transportation, shipping, postage, handling, crating, and packing.

(b) "Gross retail income" does not include that part of the gross receipts attributable to:

(1) the value of any tangible personal property received in a like kind exchange in the retail transaction, if the value of the property given in exchange is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(2) the receipts received in a retail transaction which constitute interest, finance charges, or insurance premiums on either a

promissory note or an installment sales contract;

(3) discounts, including cash, terms, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

(4) interest, financing, and carrying charges from credit extended on the sale of personal property if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; ~~or~~

(5) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser; **or**

(6) installation charges that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(c) A public utility's or a power subsidiary's gross retail income includes all gross retail income received by the public utility or power subsidiary, including any minimum charge, flat charge, membership fee, or any other form of charge or billing.

SECTION 3. IC 6-2.5-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. For purposes of this chapter:

(a) "Use" means the exercise of any right or power of ownership over tangible personal property.

(b) "Storage" means the keeping or retention of tangible personal property in Indiana for any purpose except the subsequent use of that property solely outside Indiana.

(c) "A retail merchant engaged in business in Indiana" includes any retail merchant who makes retail transactions in which a person acquires personal property **or services** for use, storage, or consumption in Indiana and who: ~~maintains:~~

(1) **maintains** an office, place of distribution, sales location, sample location, warehouse, storage place, or other place of business which is located in Indiana and which the retail merchant maintains, occupies, or uses, either permanently or temporarily, either directly or indirectly, and either by ~~himself~~ **the retail merchant** or through ~~an~~ **a representative,** agent, or subsidiary; ~~or~~

(2) **maintains** a representative, agent, salesman, canvasser, or solicitor who, while operating in Indiana under the authority of and on behalf of the retail merchant or a subsidiary of the retail merchant, sells, delivers, **installs, repairs, assembles, sets up, accepts returns of, bills, invoices,** or takes orders for sales of tangible personal property **or services** to be used, stored, or consumed in Indiana;

(3) is otherwise required to register as a retail merchant under IC 6-2.5-8-1; or

(4) may be required by the state to collect tax under this article to the extent allowed under the Constitution of the United States and federal law.

(d) Notwithstanding any other provision of this section, tangible or intangible property that is:

(1) owned or leased by a person that has contracted with a commercial printer for printing; and

(2) located at the premises of the commercial printer;

shall not be considered to be, or to create, an office, a place of distribution, a sales location, a sample location, a warehouse, a storage place, or other place of business maintained, occupied, or used in any way by the person. A commercial printer with which a person has contracted for printing shall not be considered to be in any way a representative, an agent, a salesman, a canvasser, or a solicitor for the person.

SECTION 4. IC 6-2.5-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. ~~(a)~~ A person is entitled to a credit against the use tax imposed on the use, storage, or consumption of a particular item of tangible personal property equal to the amount, if any, of sales tax, purchase tax, or use tax paid to another state, territory, or possession of the United States for the acquisition of that property.

~~(b) The credit provided under subsection (a) does not apply to the use tax imposed on the use, storage, or consumption of vehicles, watercraft, or aircraft that are required to be titled, registered, or licensed by Indiana.~~

SECTION 5. IC 6-2.5-4-1, AS AMENDED BY P.L.257-2003, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A person is a retail merchant making a retail transaction when he engages in selling at retail.

(b) A person is engaged in selling at retail when, in the ordinary course of his regularly conducted trade or business, he:

(1) acquires tangible personal property for the purpose of resale; and

(2) transfers that property to another person for consideration.

(c) For purposes of determining what constitutes selling at retail, it does not matter whether:

(1) the property is transferred in the same form as when it was acquired;

(2) the property is transferred alone or in conjunction with other property or services; or

(3) the property is transferred conditionally or otherwise.

(d) Notwithstanding subsection (b), a person is not selling at retail if he is making a wholesale sale as described in section 2 of this chapter.

(e) The gross retail income received from selling at retail is only taxable under this article to the extent that the income represents:

(1) the price of the property transferred, without the rendition of any service; and

(2) except as provided in subsection (g), any bona fide charges which are made for preparation, fabrication, alteration, modification, finishing, completion, delivery, or other service performed in respect to the property transferred before its transfer and which are separately stated on the transferor's records.

~~For purposes of subdivision (2), charges for delivery are charges by the seller for preparation and delivery of the property to a location designated by the purchaser of property, including but not limited to transportation, shipping, postage, handling, crating, and packing.~~ **For purposes of this subsection, a transfer is considered to have occurred after delivery of the property to the purchaser.**

(f) Notwithstanding subsection (e):

(1) in the case of retail sales of gasoline (as defined in IC 6-6-1.1-103) and special fuel (as defined in IC 6-6-2.5-22), the gross retail income received from selling at retail is the total sales price of the gasoline or special fuel minus the part of that price attributable to tax imposed under IC 6-6-1.1, IC 6-6-2.5, or Section 4041(a) or Section 4081 of the Internal Revenue Code; and

(2) in the case of retail sales of cigarettes (as defined in IC 6-7-1-2), the gross retail income received from selling at retail is the total sales price of the cigarettes including the tax imposed under IC 6-7-1.

(g) Gross retail income does not include income that represents charges for serving or delivering food and food ingredients furnished, prepared, or served for consumption at a location, or on equipment, provided by the retail merchant. However, the exclusion under this subsection only applies if the charges for the serving or delivery are stated separately from the price of the food and food ingredients when the purchaser pays the charges.

SECTION 6. IC 6-2.5-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2004 (RETROACTIVE)]: Sec. 11. (a) A person is a retail merchant making a retail transaction when ~~he~~ **the person** furnishes ~~local~~ cable television **or radio** service or ~~intrastate cable~~ **satellite** television **or radio** service **that terminates in Indiana.**

(b) Notwithstanding subsection (a), a person is not a retail merchant making a retail transaction when the person provides, installs, constructs, services, or removes tangible personal property which is used in connection with the furnishing of ~~local~~ cable television **or radio** service or ~~intrastate cable~~ **satellite or radio** television service.

SECTION 7. IC 6-2.5-6-9, AS AMENDED BY P.L.257-2003, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) In determining the amount of state gross retail and use taxes which ~~he~~ **a retail merchant** must remit under section 7 of this chapter, ~~a~~ **the** retail merchant shall, subject to ~~subsection~~ **subsections** (c) **and (d),** deduct from ~~his~~ **the retail merchant's** gross retail income from retail transactions made

during a particular reporting period, an amount equal to ~~his~~ **the retail merchant's** receivables which:

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

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

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

(b) If a retail merchant deducts a receivable under subsection (a) and subsequently collects all or part of that receivable, then the retail merchant shall, subject to subsection ~~(c)(6),~~ **(d)(6),** include the amount collected as part of ~~his~~ **the retail merchant's** gross retail income from retail transactions for the particular reporting period in which ~~he~~ **the retail merchant** makes the collection.

(c) **This subsection applies only to retail transactions occurring after June 30, 2004. The right to a deduction under this section is assignable only if the retail merchant that paid the state gross retail or use tax liability assigned the right to the deduction in writing.**

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

(1) The deduction does not include interest.

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

(A) financing charges or interest;

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

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

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

(E) repossessed property.

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

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

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

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

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

SECTION 8. IC 6-2.5-8-10, AS AMENDED BY P.L.254-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) A person that:

(1) makes retail transactions from outside Indiana to a destination in Indiana;

(2) does not maintain a place of business in Indiana; and

(3) either:

(A) engages in the regular or systematic soliciting of retail transactions from potential customers in Indiana;

(B) enters into a contract to provide property or services to an agency (as defined in IC 4-13-2-1) or ~~an~~ **a state educational** institution ~~of higher education~~ (as defined in IC 20-12-0.5-1); ~~or~~

(C) agrees to sell property or services to an agency (as defined in IC 4-13-2-1) or ~~an~~ **a state educational** institution ~~of higher education~~ (as defined in IC 20-12-0.5-1); **or**

(D) is closely related to another person that maintains a place of business in Indiana or is described in clause (A), (B), or (C);

shall file an application for a retail merchant's certificate under this chapter and collect and remit tax as provided in this article. Conduct described in subdivision (3)(B) and (3)(C) occurring after June 30, 2003, constitutes consent to be treated under this article as if the person has a place of business in Indiana or is engaging in conduct described in subdivision (3)(A), including the provisions of this article that require a person to collect and remit tax under this article.

(b) A person is rebuttably presumed to be engaging in the regular or systematic soliciting of retail transactions from potential customers in Indiana if the person does any of the following:

(1) Distributes catalogs, periodicals, advertising flyers, or other written solicitations of business to potential customers in Indiana, regardless of whether the distribution is by mail or otherwise and without regard to the place from which the distribution originated or in which the materials were prepared.

(2) Displays advertisements on billboards or displays other outdoor advertisements in Indiana.

(3) Advertises in newspapers published in Indiana.

(4) Advertises in trade journals or other periodicals that circulate primarily in Indiana.

(5) Advertises in Indiana editions of a national or regional publication or a limited regional edition in which Indiana is included as part of a broader regional or national publication if the advertisements are not placed in other geographically defined editions of the same issue of the same publication.

(6) Advertises in editions of regional or national publications that are not by the contents of the editions geographically targeted to Indiana but that are sold over the counter in Indiana or by subscription to Indiana residents.

(7) Broadcasts on a radio or television station located in Indiana.

(8) Makes any other solicitation by telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system.

(c) A person not maintaining a place of business in Indiana is considered to be engaged in the regular or systematic soliciting of retail transactions from potential customers in Indiana if the person engages in any of the activities described in subsection (b) and:

(1) makes at least one hundred (100) retail transactions from outside Indiana to destinations in Indiana during a period of twelve (12) consecutive months; or

(2) makes at least ten (10) retail transactions totaling more than one hundred thousand dollars ($100,000) from outside Indiana to destinations in Indiana during a period of twelve (12) consecutive months.

(d) **Subject to subsection (e),** the location in or outside Indiana of vendors that:

(1) are independent of a person that is soliciting customers in Indiana; and

(2) provide products or services to the person in connection with the person's solicitation of customers in Indiana:

(A) including products and services such as creation of copy, printing, distribution, and recording; **but**

(B) excluding:

(i) delivery of goods;

(ii) billing or invoicing for the sale of goods;

(iii) providing repairs of goods;

(iv) assembling or setting up goods for use by the

purchaser; or

(v) accepting returns of unwanted or damaged goods;

is not to be taken into account in the determination of whether the person is required to collect use tax under this section.

(e) Subsection (d) does not apply if the person soliciting orders is closely related to the vendor.

(f) For purposes of subsections (a) and (e), a person is closely related to another person if:

(1) the two (2) persons:

(A) use an identical or a substantially similar name, trademark, or good will to develop, promote, or maintain sales;

(B) pay for each other's services in whole or in part contingent on the volume or value of sales; or

(C) share a common business plan or substantially coordinate their business plans; and

(2) either:

(A) one (1) or both of the persons are corporations and:

(i) one (1) person; and

(ii) any other person related to the person in a manner that would require an attribution of stock from the corporation to the person or from the person to the corporation under the attribution rules of Section 318 of the Internal Revenue Code;

own directly, indirectly, beneficially, or constructively at least fifty percent (50%) of the value of the corporation's outstanding stock;

(B) both entities are corporations and an individual stockholder and the members of the stockholder's family (as defined in Section 318 of the Internal Revenue Code) own directly, indirectly, beneficially, or constructively a total of at least fifty percent (50%) of the value of both entities' outstanding stock; or

(C) one (1) or both persons are limited liability companies, partnerships, limited liability partnerships, estates, or trusts, and their members, partners, or beneficiaries own directly, indirectly, beneficially, or constructively a total of at least fifty percent (50%) of the profits, capital, stock, or value of one (1) or both persons.

SECTION 9. IC 6-3-1-3.5, AS AMENDED BY P.L.1-2004, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

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

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars ($1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars ($1,000).

(4) Subtract one thousand dollars ($1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) one thousand five hundred dollars ($1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; and

(B) five hundred dollars ($500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars ($40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars ($2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars ($2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which

bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

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

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

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

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

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

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

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

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

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

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

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

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

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

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

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

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

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

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

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

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

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

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

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

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

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

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

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

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

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

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

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

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

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

SECTION 10. IC 6-3-2-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 2.5. (a) This section applies to a resident person. ~~for a particular taxable year, if the taxpayer's adjusted gross income for that taxable year is reduced because of a deduction allowed under Section 172 of the Internal Revenue Code for a net operating loss. For purposes of section 1 of this chapter, the taxpayer's adjusted gross income, for the particular taxable year, is the remainder determined under STEP FOUR of the following formula:~~

~~STEP ONE: Determine the taxpayer's adjusted gross income, for the taxable year, as calculated without the deduction for net operating losses provided by Section 172 of the Internal Revenue Code.~~

~~STEP TWO: Determine, in the manner prescribed in subsection (b), the amount of the taxpayer's net operating losses that are deductible for the taxable year under Section 172 of the Internal Revenue Code, as adjusted to reflect the modifications required by IC 6-3-1-3.5.~~

~~STEP THREE: Enter the larger of zero (0) or the amount determined under STEP TWO.~~

~~STEP FOUR: Subtract the amount entered under STEP THREE from the amount determined under STEP ONE.~~

~~(b) For purposes of STEP TWO of subsection (a), the~~

~~modifications that are to be applied are those modifications required under IC 6-3-1-3.5 for the same taxable year during which each net operating loss was incurred. In addition, for purposes of STEP TWO of subsection (a), the following procedures apply:~~

~~(1) The taxpayer's net operating loss for a particular taxable year shall be treated as a positive number.~~

~~(2) A modification that is to be added to federal adjusted gross income or federal taxable income under IC 6-3-1-3.5 shall be treated as a negative number.~~

~~(3) A modification that is to be subtracted from federal adjusted gross income or federal taxable income under IC 6-3-1-3.5 shall be treated as a positive number.~~

(b) Resident persons are entitled to a net operating loss deduction. The amount of the deduction taken in a taxable year may not exceed the taxpayer's unused Indiana net operating losses carried back or carried over to that year.

(c) An Indiana net operating loss equals the taxpayer's federal net operating loss for a taxable year as calculated under Section 172 of the Internal Revenue Code, adjusted for the modifications required by IC 6-3-1-3.5.

(d) The following provisions apply for purposes of subsection (c):

(1) The modifications that are to be applied are those modifications required under IC 6-3-1-3.5 for the same taxable year in which each net operating loss was incurred.

(2) An Indiana net operating loss includes a net operating loss that arises when the modifications required by IC 6-3-1-3.5 exceed the taxpayer's federal adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for the taxable year in which the Indiana net operating loss is determined.

(e) Subject to the limitations contained in subsection (g), an Indiana net operating loss carryback or carryover shall be available as a deduction from the taxpayer's adjusted gross income (as defined in IC 6-3-1-3.5) in the carryback or carryover year provided in subsection (f).

(f) Carrybacks and carryovers shall be determined under this subsection as follows:

(1) An Indiana net operating loss shall be an Indiana net operating loss carryback to each of the carryback years preceding the taxable year of the loss.

(2) An Indiana net operating loss shall be an Indiana net operating loss carryover to each of the carryover years following the taxable year of the loss.

(3) Carryback years shall be determined by reference to the number of years allowed for carrying back a net operating loss under Section 172(b) of the Internal Revenue Code.

(4) Carryover years shall be determined by reference to the number of years allowed for carrying over net operating losses under Section 172(b) of the Internal Revenue Code.

(5) A taxpayer who makes an election under Section 172(b)(3) of the Internal Revenue Code to relinquish the carryback period with respect to a net operating loss for any taxable year shall be considered to have also relinquished the carryback of the Indiana net operating loss for purposes of this section.

(g) The entire amount of the Indiana net operating loss for any taxable year shall be carried to the earliest of the taxable years to which (as determined under subsection (f)) the loss may be carried. The amount of the Indiana net operating loss remaining after the deduction is taken under this section in a taxable year may be carried back or carried over as provided in subsection (f). The amount of the Indiana net operating loss carried back or carried over from year to year shall be reduced to the extent that the Indiana net operating loss carryback or carryover is used by the taxpayer to obtain a deduction in a taxable year until the occurrence of the earlier of the following:

(1) The entire amount of the Indiana net operating loss has been used as a deduction.

(2) The Indiana net operating loss has been carried over to each of the carryover years provided by subsection (f).

SECTION 11. IC 6-3-2-2.6, AS AMENDED BY P.L.192-2002(ss), SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]:

Sec. 2.6. (a) This section applies to a corporation or a nonresident person. ~~for a particular taxable year, if the taxpayer's adjusted gross income for that taxable year is reduced because of a deduction allowed under Section 172 of the Internal Revenue Code for a net operating loss. For purposes of section 1 of this chapter, the taxpayer's adjusted gross income, for the particular taxable year, derived from sources within Indiana is the remainder determined under STEP FOUR of the following formula:~~

~~STEP ONE: Determine, in the manner prescribed in section 2 of this chapter, the taxpayer's adjusted gross income, for the taxable year, derived from sources within Indiana, as calculated without the deduction for net operating losses provided by Section 172 of the Internal Revenue Code.~~

~~STEP TWO: Determine, in the manner prescribed in subsection (b), the amount of the taxpayer's net operating losses that are deductible for the taxable year under Section 172 of the Internal Revenue Code, as adjusted to reflect the modifications required by IC 6-3-1-3.5, and that are derived from sources within Indiana.~~

~~STEP THREE: Enter the larger of zero (0) or the amount determined under STEP TWO.~~

~~STEP FOUR: Subtract the amount entered under STEP THREE from the amount determined under STEP ONE.~~

~~(b) For purposes of STEP TWO of subsection (a), the modifications that are to be applied are those modifications required under IC 6-3-1-3.5 for the same taxable year during which each net operating loss was incurred. In addition, for purposes of STEP TWO of subsection (a), the amount of a taxpayer's net operating losses that are derived from sources within Indiana shall be determined in the same manner that the amount of the taxpayer's income derived from sources within Indiana is determined, under section 2 of this chapter, for the same taxable year during which each loss was incurred. Also, for purposes of STEP TWO of subsection (a), the following procedures apply:~~

~~(1) The taxpayer's net operating loss for a particular taxable year shall be treated as a positive number.~~

~~(2) A modification that is to be added to federal adjusted gross income or federal taxable income under IC 6-3-1-3.5 shall be treated as a negative number.~~

~~(3) A modification that is to be subtracted from federal adjusted gross income or federal taxable income under IC 6-3-1-3.5 shall be treated as a positive number.~~

~~(4) A net operating loss under this section shall be considered even though in the year the taxpayer incurred the loss the taxpayer was not subject to the tax imposed under section 1 of this chapter because the taxpayer was:~~

~~(A) a life insurance company (as defined in Section 816(a) of the Internal Revenue Code); or~~

~~(B) an insurance company subject to tax under Section 831 of the Internal Revenue Code.~~

(b) Corporations and nonresident persons are entitled to a net operating loss deduction. The amount of the deduction taken in a taxable year may not exceed the taxpayer's unused Indiana net operating losses carried back or carried over to that year.

(c) An Indiana net operating loss equals the taxpayer's federal net operating loss for a taxable year as calculated under Section 172 of the Internal Revenue Code, derived from sources within Indiana and adjusted for the modifications required by IC 6-3-1-3.5.

(d) The following provisions apply for purposes of subsection (c):

(1) The modifications that are to be applied are those modifications required under IC 6-3-1-3.5 for the same taxable year in which each net operating loss was incurred.

(2) The amount of the taxpayer's net operating loss that is derived from sources within Indiana shall be determined in the same manner that the amount of the taxpayer's adjusted income derived from sources within Indiana is determined under section 2 of this chapter for the same taxable year during which each loss was incurred.

(3) An Indiana net operating loss includes a net operating loss that arises when the modifications required by IC 6-3-1-3.5 exceed the taxpayer's federal taxable income

(as defined in Section 63 of the Internal Revenue Code), if the taxpayer is a corporation, or when the modifications required by IC 6-3-1-3.5 exceed the taxpayer's federal adjusted gross income (as defined by Section 62 of the Internal Revenue Code), if the taxpayer is a nonresident person, for the taxable year in which the Indiana net operating loss is determined.

(e) Subject to the limitations contained in subsection (g), an Indiana net operating loss carryback or carryover shall be available as a deduction from the taxpayer's adjusted gross income derived from sources within Indiana (as defined in section 2 of this chapter) in the carryback or carryover year provided in subsection (f).

(f) Carrybacks and carryovers shall be determined under this subsection as follows:

(1) An Indiana net operating loss shall be an Indiana net operating loss carryback to each of the carryback years preceding the taxable year of the loss.

(2) An Indiana net operating loss shall be an Indiana net operating loss carryover to each of the carryover years following the taxable year of the loss.

(3) Carryback years shall be determined by reference to the number of years allowed for carrying back a net operating loss under Section 172(b) of the Internal Revenue Code.

(4) Carryover years shall be determined by reference to the number of years allowed for carrying over net operating losses under Section 172(b) of the Internal Revenue Code.

(5) A taxpayer who makes an election under Section 172(b)(3) of the Internal Revenue Code to relinquish the carryback period with respect to a net operating loss for any taxable year shall be considered to have also relinquished the carryback of the Indiana net operating loss for purposes of this section.

(g) The entire amount of the Indiana net operating loss for any taxable year shall be carried to the earliest of the taxable years to which (as determined under subsection (f)) the loss may be carried. The amount of the Indiana net operating loss remaining after the deduction is taken under this section in a taxable year may be carried back or carried over as provided in subsection (f). The amount of the Indiana net operating loss carried back or carried over from year to year shall be reduced to the extent that the Indiana net operating loss carryback or carryover is used by the taxpayer to obtain a deduction in a taxable year until the occurrence of the earlier of the following:

(1) The entire amount of the Indiana net operating loss has been used as a deduction.

(2) The Indiana net operating loss has been carried over to each of the carryover years provided by subsection (f).

(h) An Indiana net operating loss deduction determined under this section shall be allowed notwithstanding the fact that in the year the taxpayer incurred the net operating loss the taxpayer was not subject to the tax imposed under section 1 of this chapter because the taxpayer was:

(1) a life insurance company (as defined in Section 816(a) of the Internal Revenue Code); or

(2) an insurance company subject to tax under Section 831 of the Internal Revenue Code.

(i) In the case of a life insurance company that claims an operations loss deduction under Section 810 of the Internal Revenue Code, this section shall be applied by:

(1) substituting the corresponding provisions of Section 810 of the Internal Revenue Code in place of references to Section 172 of the Internal Revenue; and

(2) substituting life insurance company taxable income (as defined in Section 801 the Internal Revenue Code) in place of references to taxable income (as defined in Section 63 of the Internal Revenue Code).

(j) For purposes of an amended return filed to carry back an Indiana net operating loss:

(1) the term "due date of the return" as used in IC 6-8.1-9-1(a)(1) means the due date of the return for the taxable year in which the net operating loss was incurred; and

(2) the term "date the payment was due" as used in IC 6-8.1-9-2(c) means the due date of the return for the taxable year in which the net operating loss was incurred.

SECTION 12. IC 6-3.1-4-6, AS AMENDED BY P.L.224-2003, SECTION 191, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. ~~Notwithstanding the other provisions of this chapter, a taxpayer is not entitled to a credit for Indiana qualified research expense incurred after December 31, 2013.~~ Notwithstanding Section 41 of the Internal Revenue Code, the termination date in Section 41(h) of the Internal Revenue Code does not apply to a taxpayer who is eligible for the credit under this chapter for the taxable year in which the Indiana qualified research expense is incurred.

SECTION 13. IC 6-3.1-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 7. As used in this chapter, "pass through entity" means **a:**

(1) ~~a~~ corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2); ~~or~~

(2) ~~a~~ partnership;

(3) trust;

(4) limited liability company; or

(5) limited liability partnership.

SECTION 14. IC 6-3.1-13-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 21. (a) If a pass through entity does not have state income tax liability against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

(b) The credit provided under subsection (a) is in addition to a tax credit to which a shareholder or partner of a pass through entity is otherwise entitled under a separate agreement under this chapter. A pass through entity and a shareholder or partner of the pass through entity may not claim more than one (1) credit under the same agreement.

(c) This subsection applies only to a pass through entity that is a limited liability company or a limited liability partnership owned wholly or in part by an electric cooperative incorporated under IC 8-1-13. At the request of a pass through entity, if the board finds that the amount of the average wage to be paid by the pass through entity will be at least double the average wage paid within the county in which the project will be located, the board may determine that:

(1) the credit shall be claimed by the pass through entity; and

(2) if the credit exceeds the pass through entity's state income tax liability for the taxable year, the excess shall be refunded to the pass through entity.

If the board grants a refund directly to a pass through entity under this subsection, the pass through entity shall claim the refund on forms prescribed by the department of state revenue.

SECTION 15. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)] **IC 6-3.1-13-7 and IC 6-3.1-13-21, both as amended by this act, apply to taxable years beginning after December 31, 2003.**

SECTION 16. IC 6-3.1-26-26, AS ADDED BY P.L.224-2003, SECTION 197, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 26. **(a) This chapter applies to taxable years beginning after December 31, 2003.**

(b) Notwithstanding the other provisions of this chapter, a taxpayer is not entitled to a credit for a qualified investment made after December 31, ~~2005.~~ **2007.** However, this section may not be construed to prevent a taxpayer from carrying an unused tax credit attributable to a qualified investment made before January 1, ~~2006,~~ **2008,** forward to a taxable year beginning after December 31, ~~2005,~~ **2007,** in the manner provided by section 15 of this chapter.

SECTION 17. P.L.224-2003, SECTION 198 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 18. IC 6-4.1-1-3, AS AMENDED BY HEA 1154-2004, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) "Class A transferee" means

a transferee who is:
(1) a lineal ancestor of the transferor;
(2) a lineal descendant of the transferor; or
(3) a stepchild of the transferor.
(b) "Class B transferee" means a transferee who is a:
(1) brother or sister of the transferor;
(2) descendant of a brother or sister of the transferor; or
(3) spouse, widow, or widower of a child of the transferor.
(c) "Class C transferee" means a transferee, except a surviving spouse, who is neither a Class A nor a Class B transferee.
(d) For purposes of this section, a legally adopted child is to be treated as if the child were the natural child of the child's adopting parent **if the adoption occurred before the individual was totally emancipated.** For purposes of this section, if a relationship of loco parentis has existed for at least ten (10) years and if the relationship began before the child's fifteenth birthday, the child is to be considered the natural child of the loco parentis parent.
(e) As used in this section, "stepchild" means a child of the transferor's surviving, deceased, or former spouse who is not a child of the transferor.
SECTION 19. IC 6-2.5-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) As used in this section, a "power subsidiary" means a corporation which is owned or controlled by one (1) or more public utilities that furnish or sell electrical energy, natural or artificial gas, water, steam, or steam heat and which produces power exclusively for the use of those public utilities.
(b) A power subsidiary or a person engaged as a public utility is a retail merchant making a retail transaction when the subsidiary or person furnishes or sells electrical energy, natural or artificial gas, water, steam, or steam heating service to a person for commercial or domestic consumption.
(c) Notwithstanding subsection (b), a power subsidiary or a person engaged as a public utility is not a retail merchant making a retail transaction ~~when:~~ **in any of the following transactions:**
(1) The power subsidiary or person provides, installs, constructs, services, or removes tangible personal property which is used in connection with the furnishing of the services or commodities listed in subsection (b).
(2) The power subsidiary or person sells the services or commodities listed in subsection (b) to another public utility or power subsidiary described in this section or a person described in section 6 of this chapter. ~~or~~
(3) The power subsidiary or person sells the services or commodities listed in subsection (b) to a person for use in manufacturing, mining, production, refining, oil extraction, mineral extraction, irrigation, agriculture, or horticulture. However, this exclusion for sales of the services and commodities only applies if the services are consumed as an essential and integral part of an integrated process that produces tangible personal property and those sales are separately metered for the excepted uses listed in this subdivision, or if those sales are not separately metered but are predominately used by the purchaser for the excepted uses listed in this subdivision.
(4) The power subsidiary or person sells the services or commodities listed in subsection (b) and all the following conditions are satisfied:
(A) The services or commodities are sold to a business that after June 30, 2004:
(i) relocates all or part of its operations to a facility; or
(ii) expands all or part of its operations in a facility;
located in a military base (as defined in IC 36-7-30-1(c)), a military base reuse area established under IC 36-7-30, an economic development area established under IC 36-7-14.5-12.5, or a military base recovery site designated under IC 6-3.1-11.5.
(B) The business uses the services or commodities in the facility described in clause (A) not later than five (5) years after the operations that are relocated to the facility or expanded in the facility commence.
(C) The sales of the services or commodities are separately metered for use by the relocated or expanded operations.
However, this subdivision does not apply to a business that substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations in an area described in this subdivision, unless the department determines that the business had existing operations in the area described in this subdivision and that the operations relocated to the area are an expansion of the business's operations in the area.
SECTION 20. IC 6-3-2-1, AS AMENDED BY P.L.192-2002(ss), SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 1. (a) Each taxable year, a tax at the rate of three and four-tenths percent (3.4%) of adjusted gross income is imposed upon the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person.
(b) **Except as provided in section 1.5 of this chapter,** each taxable year, a tax at the rate of eight and five-tenths percent (8.5%) of adjusted gross income is imposed on that part of the adjusted gross income derived from sources within Indiana of every corporation.
SECTION 21. IC 6-3-2-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: **Sec. 1.5. (a) As used in this section, "qualified area" means:**
(1) a military base (as defined in IC 36-7-30-1(c));
(2) a military base reuse area established under IC 36-7-30;
(3) an economic development area established under IC 36-7-14.5-12.5; or
(4) a military base recovery site designated under IC 6-3.1-11.5.
(b) Except as provided in subsection (c), a tax at the rate of five percent (5%) of adjusted gross income is imposed on that part of the adjusted gross income of a corporation that is derived from sources within a qualified area if the corporation locates all or part of its operations in a qualified area during the taxable year, as determined under subsection (e). The tax rate under this section applies to the taxable year in which the corporation locates its operations in the qualified area and to the next succeeding four (4) taxable years.
(c) A taxpayer is not entitled to the tax rate described in subsection (b) to the extent that the taxpayer substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations within the qualified area, unless:
(1) the taxpayer had existing operations in the qualified area; and
(2) the operations relocated to the qualified area are an expansion of the taxpayer's operations in the qualified area.
(d) A determination under subsection (c) that a taxpayer is not entitled to the tax rate provided by this section as a result of a substantial reduction or cessation of operations applies to the taxable year in which the substantial reduction or cessation occurs and in all subsequent years. Determinations under this section shall be made by the department of state revenue.
(e) The department of state revenue:
(1) shall adopt rules under IC 4-22-2 to establish a procedure for determining the part of a corporation's adjusted gross income that was derived from sources within a qualified area; and
(2) may adopt other rules that the department considers necessary for the implementation of this chapter.
SECTION 22. IC 6-3.1-11.6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]:
Chapter 11.6. Military Base Investment Cost Credit
Sec. 1. As used in this chapter, "NAICS Manual" refers to the current edition of the North American Industry Classification System Manual - United States published by the National Technical Information Service of the United States Department of Commerce.
Sec. 2. As used in this chapter, "qualified area" means:
(1) a military base (as defined in IC 36-7-30-1(c));
(2) a military base reuse area established under IC 36-7-30;
(3) an economic development area established under

IC 36-7-14.5-12.5; or

(4) a military base recovery site designated under IC 6-3.1-11.5.

Sec. 3. As used in this chapter, "pass through entity" means:

(1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) a partnership;

(3) a limited liability company; or

(4) a limited liability partnership.

Sec. 4. As used in this chapter, "qualified investment" means any of the following:

(1) The purchase of an ownership interest in a business that locates all or part of its operations in a qualified area during the taxable year, if the purchase is approved by the department of commerce under section 12 of this chapter.

(2) Subject to section 13 of this chapter, an investment:

(A) that is made in a business that locates all or part of its operations in a qualified area during the taxable year;

(B) through which the taxpayer does not acquire an ownership interest in the business; and

(C) that is approved by the department of commerce under section 12 of this chapter.

Sec. 5. As used in this chapter, "SIC Manual" refers to the current edition of the Standard Industrial Classification Manual of the United States Office of Management and Budget.

Sec. 6. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax), as computed after the application of the credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this chapter.

Sec. 7. As used in this chapter, "taxpayer" means an individual or pass through entity that has any state tax liability.

Sec. 8. As used in this chapter, "transfer ownership" means to purchase existing investment in a business, including real property, improvements to real property, or equipment.

Sec. 9. (a) A taxpayer is entitled to a credit against the taxpayer's state tax liability for a taxable year if the taxpayer makes a qualified investment in that taxable year.

(b) The amount of the credit to which a taxpayer is entitled is the percentage determined under section 12 of this chapter multiplied by the amount of the qualified investment made by the taxpayer during the taxable year.

Sec. 10. (a) If a pass through entity is entitled to a credit under section 9 of this chapter but does not have state tax liability against which the tax credit may be applied, an individual who is a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

(b) The credit provided under subsection (a) is in addition to a tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and an individual who is a shareholder, partner, or member of the pass through entity may not claim more than one (1) credit for the same investment.

Sec. 11. (a) If the amount determined under section 9(b) of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for a subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of unused credit.

Sec. 12. (a) To be entitled to a credit for a purchase described in section 4(1) of this chapter, a taxpayer must request the department of commerce to determine:

(1) whether a purchase of an ownership interest in a business located in a qualified area is a qualified investment; and

(2) the percentage credit to be allowed.

The request must be made before a purchase is made.

(b) To be entitled to a credit for an investment described in section 4(2) of this chapter, a taxpayer must request the department of commerce to determine:

(1) whether an investment in a business that locates in a qualified area during the taxable year is a qualified investment; and

(2) the percentage credit to be allowed.

The request must be made before an investment is made.

(c) The department of commerce shall find that a purchase or other investment is a qualified investment if:

(1) the business is viable;

(2) the taxpayer has a legitimate purpose for purchase of the ownership interest or the investment;

(3) the purchase or investment would not be made unless a credit is allowed under this chapter; and

(4) the purchase or investment is critical to the commencement, enhancement, or expansion of business operations in the qualified area and:

(A) in the case of a purchase described in section 4(1) of this chapter, the purchase will not merely transfer ownership, and the purchase proceeds will be used only in business operations in the qualified area; and

(B) in the case of an investment described in section 4(2) of this chapter, the investment will not be made in a business that substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations within the qualified area, as described in section 13 of this chapter.

(d) If the department of commerce finds that a purchase or other investment is a qualified investment, the department of commerce shall certify the percentage credit to be allowed under this chapter based upon the following:

(1) For a purchase described in section 4(1) of this chapter, a percentage credit of ten percent (10%) may be allowed based on the need of the business for equity financing, as demonstrated by the inability of the business to obtain debt financing.

(2) A percentage credit of two percent (2%) may be allowed for purchases of or investments in business operations in the retail, professional, or warehouse/distribution codes of the SIC Manual (or corresponding sectors in the NAICS Manual).

(3) A percentage credit of five percent (5%) may be allowed for purchases of or investments in business operations in the manufacturing codes of the SIC Manual (or corresponding sectors in the NAICS Manual).

(4) A percentage credit of five percent (5%) may be allowed for purchases of or investments in high technology business operations (as defined in IC 4-4-6.1-1.3).

(5) A percentage credit may be allowed for jobs created during the twelve (12) month period following the purchase of an ownership interest in the business or other investment in the business, as determined under the following table:

JOBS CREATED	PERCENTAGE
Less than 11 jobs	1%
11 to 25 jobs	2%
26 to 40 jobs	3%
41 to 75 jobs	4%
More than 75 jobs	5%

(6) A percentage credit of five percent (5%) may be allowed if fifty percent (50%) or more of the jobs created in the twelve (12) month period following the purchase of an ownership interest in the business or other investment in the business will be reserved for residents in the qualified area.

(7) A percentage credit may be allowed for investments made in real or depreciable personal property, as determined under the following table:

AMOUNT OF INVESTMENT	PERCENTAGE
Less than $25,001	1%
$25,001 to $50,000	2%
$50,001 to $100,000	3%
$100,001 to $200,000	4%
More than $200,000	5%

The total percentage credit may not exceed thirty percent (30%).

(e) In the case of a purchase described in section 4(1) of this chapter, if all or a part of a purchaser's intent is to transfer ownership, the tax credit shall be applied only to that part of the purchase that relates directly to the enhancement or expansion of business operations in the qualified area.

Sec. 13. (a) This subsection applies to an investment described in section 4(2) of this chapter.

(b) A taxpayer is not entitled to claim the credit provided by this chapter to the extent that the taxpayer invests in a business that substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations within the qualified area, unless:

(1) the business had existing operations in the qualified area; and

(2) the operations relocated to the qualified area are an expansion of the business's operations in the qualified area.

(c) A determination under subsection (b) that a taxpayer is not entitled to the credit provided by this chapter as a result of a business's substantial reduction or cessation of operations applies to credits that would otherwise arise in the taxable year:

(1) in which the substantial reduction or cessation occurs; or

(2) in which the taxpayer proposes to make the investment in the business, if different than the taxable year described in subdivision (1).

Determinations under this section shall be made by the department of state revenue.

Sec. 14. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department of state revenue. The taxpayer shall submit to the department of state revenue the certification of the percentage credit by the department of commerce and all information that the department of state revenue determines is necessary for the calculation of the credit provided by this chapter and for the determination of whether an investment is a qualified investment.

SECTION 23. IC 36-7-32-11, AS ADDED BY P.L.192-2002(ss), SECTION 187, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) After receipt of an application under section 10 of this chapter, and subject to subsection (b), the department of commerce may designate a certified technology park if the department determines that the application demonstrates a firm commitment from at least one (1) business engaged in a high technology activity creating a significant number of jobs and satisfies one (1) or more of the following additional criteria:

(1) A demonstration of significant support from an institution of higher education, ~~or~~ a private research based institute, **or a military research and development or testing facility on an active United States government military base or other military installation** located within, or in the vicinity of, the proposed certified technology park, as evidenced by the following criteria:

(A) Grants of preferences for access to and commercialization of intellectual property.

(B) Access to laboratory and other facilities owned by or under the control of the institution of higher education or private research based institute.

(C) Donations of services.

(D) Access to telecommunications facilities and other infrastructure.

(E) Financial commitments.

(F) Access to faculty, staff, and students.

(G) Opportunities for adjunct faculty and other types of staff arrangements or affiliations.

(H) Other criteria considered appropriate by the department.

(2) A demonstration of a significant commitment by the institution of higher education, ~~or~~ private research based institute, **or military research and development or testing facility on an active United States government military base or other military installation** to the commercialization of research produced at the certified technology park, as evidenced by the intellectual property and, if applicable, tenure policies that reward faculty and staff for commercialization and collaboration with private businesses.

(3) A demonstration that the proposed certified technology park will be developed to take advantage of the unique characteristics and specialties offered by the public and private resources available in the area in which the proposed certified technology park will be located.

(4) The existence of or proposed development of a business incubator within the proposed certified technology park that exhibits the following types of resources and organization:

(A) Significant financial and other types of support from the public or private resources in the area in which the proposed certified technology park will be located.

(B) A business plan exhibiting the economic utilization and availability of resources and a likelihood of successful development of technologies and research into viable business enterprises.

(C) A commitment to the employment of a qualified full-time manager to supervise the development and operation of the business incubator.

(5) The existence of a business plan for the proposed certified technology park that identifies its objectives in a clearly focused and measurable fashion and that addresses the following matters:

(A) A commitment to new business formation.

(B) The clustering of businesses, technology, and research.

(C) The opportunity for and costs of development of properties under common ownership or control.

(D) The availability of and method proposed for development of infrastructure and other improvements, including telecommunications technology, necessary for the development of the proposed certified technology park.

(E) Assumptions of costs and revenues related to the development of the proposed certified technology park.

(6) A demonstrable and satisfactory assurance that the proposed certified technology park can be developed to principally contain property that is primarily used for, or will be primarily used for, a high technology activity or a business incubator.

(b) The department of commerce may not approve an application that would result in a substantial reduction or cessation of operations in another location in Indiana in order to relocate them within the certified technology park.

SECTION 24. [EFFECTIVE JANUARY 1, 2005] **IC 6-3-2-1, as amended by this act, and IC 6-3-2-1.5 and IC 6-3.1-11.6, both as added by this act, apply to taxable years beginning after December 31, 2004.**

SECTION 25. [EFFECTIVE JULY 1, 2004] **IC 6-2.5-4-5, as amended by this act, applies to transactions that occur after June 30, 2004.**

SECTION 26. IC 32-24-1-4, AS ADDED BY P.L.2-2002, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) If the person seeking to acquire the property does not agree with the owner of an interest in the property or with the guardian of an owner concerning the damages sustained by the owner, the person seeking to acquire the property may file a complaint for that purpose with the clerk of the circuit court of the county where the property is located.

(b) The complaint must state the following:

(1) The name of the person seeking to acquire the property. This person shall be named as the plaintiff.

(2) The names of all owners, claimants to, and holders of liens on the property, if known, or a statement that they are unknown. These owners, claimants, and holders of liens shall be named as defendants.

(3) The use the plaintiff intends to make of the property or right sought to be acquired.

(4) If a right-of-way is sought, the location, general route, width, and the beginning and end points of the right-of-way.

(5) A specific description of each piece of property sought to be acquired and whether the property includes the whole or only part of the entire parcel or tract. If property is sought to be acquired by the state or by a county for a public highway or by a municipal corporation for a public use and the acquisition

confers benefits on any other property of the owner, a specific description of each piece of property to which the plaintiff alleges the benefits will accrue. Plats of property alleged to be affected may accompany the descriptions.

(6) That the plaintiff has been unable to agree for the purchase of the property with the owner, owners, or guardians, as the case may be, or that the owner is mentally incompetent or less than eighteen (18) years of age and has no legally appointed guardian, or is a nonresident of Indiana.

(c) All parcels lying in the county and required for the same public use, whether owned by the same parties or not, may be included in the same or separate proceedings at the option of the plaintiff. However, the court may consolidate or separate the proceedings to suit the convenience of parties and the ends of justice. The filing of the complaint **and a lis pendens notice in any eminent domain action under this article** constitutes notice of proceedings to all subsequent purchasers and persons taking encumbrances of the property, who are bound by the notice.

SECTION 27. IC 32-34-1-28, AS AMENDED BY P.L.107-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 28. (a) Except as provided in subsection (e), the attorney general shall publish a notice not later than November 30 of the year immediately following the year in which unclaimed property has been paid or delivered to the attorney general.

(b) Except as provided in subsection (c), the notice required by subsection (a) must be published at least once each week for two (2) successive weeks in a newspaper of general circulation published in the county in Indiana of the last known address of any person named in the notice.

(c) If the holder:

(1) does not report an address for the apparent owner; or

(2) reports an address outside Indiana;

the notice must be published in the county in which the holder has its principal place of business within Indiana or any other county that the attorney general may reasonably select.

(d) The advertised notice required by this section must be in a form that, in the judgment of the attorney general, will attract the attention of the apparent owner of the unclaimed property and must contain the following information:

(1) The name of each person appearing to be an owner of property that is presumed abandoned, as set forth in the report filed by the holder.

(2) The last known address or location of each person appearing to be an owner of property that is presumed abandoned, if an address or a location is set forth in the report filed by the holder.

(3) A statement explaining that the property of the owner is presumed to be abandoned and has been taken into the protective custody of the attorney general.

(4) A statement that information about the abandoned property and its return to the owner is available, upon request, from the attorney general, to a person having a legal or beneficial interest in the property.

(e) The attorney general is not required to publish the following in the notice:

(1) Any item with a value of less than one hundred dollars ($100).

(2) Information concerning a traveler's check, money order, or any similar instrument.

(3) Property reported as a result of a demutualization of an insurance company.

SECTION 28. IC 32-34-1-28.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 28.5. (a) The attorney general shall publish a notice not later than November 30 of the year immediately following the year in which unclaimed property as a result of a demutualization of an insurance company has been paid or delivered to the attorney general.**

(b) The notice required by subsection (a) must be published at least once in a newspaper of general circulation published in the county of Indiana of the last known address of any person named in the notice.

(c) If the holder does not report an address for the apparent owner, the notice must be published in the county in which the holder has its principal place of business within Indiana or any other county that the attorney general may reasonably select.

(d) The advertised notice required by this section must be in a form that, in the judgment of the attorney general, will attract the attention of the apparent owner of the unclaimed property. The advertised notice is not subject to the rate prescribed in IC 5-3-1-1. The rate may not be higher than the rate set in IC 5-3-1-1.

(e) The advertised notice must contain the following information:

(1) The name of each person appearing to be an owner of property that is presumed abandoned, as set forth in the report filed by the holder.

(2) The last known address or location of each person appearing to be an owner of property that is presumed abandoned, if an address or a location is set forth in the report filed by the holder.

(3) A statement explaining that the property of the owner is presumed to be abandoned and has been taken into protective custody of the attorney general.

(4) A statement that information about the abandoned property and its return to the owner is available, upon request, from the attorney general, to a person having a legal or beneficial interest in the property.

(f) The attorney general is not required to include any item with a value of less than one hundred dollars ($100) in the notice.

SECTION 29. IC 6-3.1-19-3, AS AMENDED BY P.L.224-2003, SECTION 196, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Subject to section 5 of this chapter, a taxpayer is entitled to a credit against the taxpayer's state and local tax liability for a taxable year if the taxpayer makes a qualified investment in that year.

(b) The amount of the credit to which a taxpayer is entitled is the qualified investment made by the taxpayer during the taxable year multiplied by twenty-five percent (25%).

(c) A taxpayer may assign any part of the credit to which the taxpayer is entitled under this chapter to a lessee of property redeveloped or rehabilitated under section 2 of this chapter. A credit that is assigned under this subsection remains subject to this chapter.

(d) An assignment under subsection (c) must be in writing and both the taxpayer and the lessee must report the assignment on their state tax return for the year in which the assignment is made, in the manner prescribed by the department. The taxpayer may not receive value in connection with the assignment under subsection (c) that exceeds the value of the part of the credit assigned.

(e) If a pass through entity is entitled to a credit under this chapter but does not have state and local tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

The credit provided under this subsection is in addition to a tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and an individual who is a shareholder, partner, or member of the pass through entity may not claim more than one (1) credit for the same investment.

(f) A taxpayer that is otherwise entitled to a credit under this chapter for a taxable year may claim the credit regardless of whether any income tax incremental amount or gross retail incremental amount has been:

(1) deposited in the incremental tax financing fund established for the community revitalization enhancement district; or

(2) allocated to the district.

SECTION 30. IC 6-3.1-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) ~~Except as provided in subsection (b),~~ A taxpayer is not entitled to claim the credit provided by this chapter to the extent that the taxpayer substantially reduces or ceases its operations in Indiana in order to

relocate them within the district.

~~(b) Notwithstanding subsection (a), a taxpayer's substantial reduction or cessation of operations in Indiana in order to relocate operations to a district does not make a taxpayer ineligible for a credit under this chapter if: (1)~~

Determinations under this section shall be made by the department. The department shall adopt a proposed order concerning a taxpayer's eligibility for the credit based on subsection (b) and the following criteria:

(1) A site-specific economic activity, including sales, leasing, service, manufacturing, production, storage of inventory, or any activity involving permanent full-time or part-time employees, shall be considered a business operation.

(2) With respect to an operation located outside the district (referred to in this section as a "nondistrict operation"), any of the following that occurs during the twelve (12) months before the completion of the physical relocation of all or part of the activity described in subdivision (1) from the nondistrict operation to the district as compared with the twelve (12) months before that twelve (12) months shall be considered a substantial reduction:

(A) A reduction in the average number of full-time or part-time employees of the lesser of one hundred (100) employees or twenty-five percent (25%) of all employees.

(B) A twenty-five percent (25%) reduction in the average number of goods manufactured or produced.

(C) A twenty-five percent (25%) reduction in the average value of services provided.

(D) A ten percent (10%) reduction in the average value of stored inventory.

(E) A twenty-five percent (25%) reduction in the average amount of gross income.

(b) Notwithstanding subsection (a), a taxpayer that would otherwise be disqualified under subsection (a) is eligible for the credit provided by this chapter if the taxpayer meets at least one (1) of the following conditions:

(1) The taxpayer relocates all or part of its nondistrict operation for any of the following reasons:

(A) The lease on property necessary for the nondistrict operation has been involuntarily lost through no fault of the taxpayer.

(B) The space available at the location of the nondistrict operation cannot accommodate planned expansion needed by the taxpayer.

(C) The building for the nondistrict operation has been certified as uninhabitable by a state or local building authority.

(D) The building for the nondistrict operation has been totally destroyed through no fault of the taxpayer.

(E) The renovation and construction costs at the location of the nondistrict operation are more than one and one-half (1 1/2) times the costs of purchase, renovation, and construction of a facility in the district, as certified by three (3) independent estimates.

(F) The taxpayer had existing operations in the district and ~~(2)~~ the **nondistrict** operations relocated to the district are an expansion of the taxpayer's operations in the district.

A taxpayer is eligible for benefits and incentives under clause (C) or (D) only if renovation and construction costs at the location of the nondistrict operation are more than one and one-half (1 1/2) times the cost of purchase, renovation, and construction of a facility in the district. These costs must be certified by three (3) independent estimates.

(2) The taxpayer has not terminated or reduced the pension or health insurance obligations payable to employees or former employees of the nondistrict operation without the consent of the employees.

(c) The department shall cause to be delivered to the taxpayer and to any person who testified before the department in favor of disqualification of the taxpayer a copy of the department's proposed order. The taxpayer and these persons shall be considered parties for purposes of this section.

(d) A party who wishes to appeal the proposed order of the department shall, within ten (10) days after the party's receipt of the proposed order, file written objections with the department. The department shall immediately forward copies of the objections to the director of the budget agency and the director of the department of commerce. A hearing panel composed of the commissioner of the department or the commissioner's designee, the director of the budget agency or the director's designee, and the director of the department of commerce or the director's designee shall set the objections for oral argument and give notice to the parties. A party at its own expense may cause to be filed with the hearing panel a transcript of the oral testimony or any other part of the record of the proceedings. The oral argument shall be on the record filed with the hearing panel. The hearing panel may hear additional evidence or remand the action to the department with instructions appropriate to the expeditious and proper disposition of the action. The hearing panel may adopt the proposed order of the department, may amend or modify the proposed order, or may make such order or determination as is proper on the record. The affirmative votes of at least two (2) members of the hearing panel are required for the hearing panel to take action on any measure. The taxpayer may appeal the decision of the hearing panel to the tax court in the same manner that a final determination of the department may be appealed under IC 33-3-5.

(e) If no objections are filed, the department may adopt the proposed order without oral argument.

~~(c)~~ **(f)** A determination that a taxpayer is not entitled to the credit provided by this chapter as a result of a substantial reduction or cessation of operations applies to credits that would otherwise arise in the taxable year in which the substantial reduction or cessation occurs and in all subsequent years. ~~Determinations under this section shall be made by the department of state revenue.~~

SECTION 31. IC 36-7-13-2.4, AS AMENDED BY P.L.178-2002, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2.4. Except as provided in section 10.7(c) of this chapter, as used in this chapter, "gross retail base period amount" means:

(1) the aggregate amount of state gross retail and use taxes remitted under IC 6-2.5 by the businesses operating in the territory comprising a district during the full state fiscal year that precedes the date on which:

(A) an advisory commission on industrial development adopted a resolution designating the district, in the case of a district that is not described in section 12(c) of this chapter; or

(B) the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter; ~~or~~

(2) an amount equal to:

(A) the aggregate amount of state gross retail and use taxes remitted:

(i) under IC 6-2.5 by the businesses operating in the territory comprising a district; and

(ii) during the month in which an advisory commission on industrial development adopted a resolution designating the district; multiplied by

(B) twelve (12);

in the case of a district that is described in section 12(c) of this chapter; **or**

(3) an amount equal to the amount determined under subdivision (1) or (2); plus:

(A) the aggregate amount of state gross retail and use taxes remitted:

(i) under IC 6-2.5 by the businesses operating in the territory added to the district; and

(ii) during the month in which a petition to modify the district's boundaries is approved by the budget agency under section 12.5 of this chapter; multiplied by

(B) twelve (12);

in the case of a district modified under section 12.5 of this chapter.

SECTION 32. IC 36-7-13-3.2, AS AMENDED BY P.L.178-2002, SECTION 117, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2004]: Sec. 3.2. Except as provided in section 10.7(d) of this chapter, as used in this chapter, "income tax base period amount" means:

(1) the aggregate amount of state and local income taxes paid by employees employed in the territory comprising a district with respect to wages and salary earned for work in the district for the state fiscal year that precedes the date on which:

(A) an advisory commission on industrial development adopted a resolution designating the district, in the case of a district that is not described in section 12(c) of this chapter; or

(B) the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter; ~~or~~

(2) an amount equal to:

(A) the aggregate amount of state and local income taxes paid by employees employed in the territory comprising a district with respect to wages and salary earned for work in the district during the month in which an advisory commission on industrial development adopted a resolution designating the district; multiplied by

(B) twelve (12);

in the case of a district that is described in section 12(c) of this chapter; **or**

(3) an amount equal to the amount determined under subdivision (1) or (2); plus:

(A) the aggregate amount of state and local income taxes paid by employees employed in the territory added to the district with respect to wages and salary earned for work in the modified district during the month in which a petition to modify the district's boundaries is approved by the budget agency under section 12.5 of this chapter; multiplied by

(B) twelve (12);

in the case of a district modified under section 12.5 of this chapter.

SECTION 33. IC 36-7-13-10.5, AS AMENDED BY P.L.178-2002, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10.5. (a) This section applies only to a county that meets the following conditions:

(1) The county's annual rate of unemployment has been above the average annual statewide rate of unemployment during at least three (3) of the preceding five (5) years.

(2) The median income of the county has:

(A) declined over the preceding ten (10) years; or

(B) has grown at a lower rate than the average annual statewide growth in median income during at least three (3) of the preceding five (5) years.

(3) The population of the county (as determined by the legislative body of the county) has declined over the preceding ten (10) years.

(b) Except as provided in section 10.7 of this chapter, in a county described in subsection (a), the legislative body of the county may adopt an ordinance designating an unincorporated part or unincorporated parts of the county as a district, and the legislative body of a municipality located within the county may adopt an ordinance designating a part or parts of the municipality as a district, if the legislative body finds all of the following:

(1) The area to be designated as a district contains a building or buildings that:

(A) have a total of at least fifty thousand (50,000) square feet of usable interior floor space; and

(B) are vacant or will become vacant due to the relocation of the employer or the cessation of operations on the site by the employer.

(2) Significantly fewer persons are employed in the area to be designated as a district than were employed in the area during the year that is ten (10) years previous to the current year.

(3) There are significant obstacles to redevelopment in the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or inefficient utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination or remediation.

(c) A legislative body adopting an ordinance under subsection (b) shall designate the duration of the district. However, ~~the duration may not exceed~~ **a district must terminate not later than** fifteen (15) years ~~from the time of designation.~~ **after the income tax incremental amount or gross retail incremental amount is first allocated to the district.**

(d) Except as provided in section 10.7 of this chapter, upon adoption of an ordinance designating a district, the legislative body shall submit the ordinance to the budget committee for review and recommendation to the budget agency. **If the budget agency fails to take action on an ordinance designating a district within one hundred twenty (120) days after the date that the ordinance is submitted to the budget committee, the designation of the district by the ordinance is considered approved.**

(e) Except as provided in section 10.7 of this chapter, when considering the designation of a district by an ordinance adopted under this section, the budget committee and the budget agency must make the following findings before approving the designation of the district:

(1) The area to be designated as a district meets the conditions necessary for the designation as a district.

(2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(f) Except as provided in section 10.7 of this chapter, the income tax incremental amount and the gross retail incremental amount may not be allocated to the district until ~~the budget agency approves~~ the designation of the district by the local ordinance **is approved under this section.**

SECTION 34. IC 36-7-13-12, AS AMENDED BY P.L.224-2003, SECTION 238, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) If a municipal or county executive has submitted an application to an advisory commission on industrial development requesting that an area be designated as a district under this chapter and the advisory commission has compiled and prepared the information required under section 11 of this chapter concerning the area, the advisory commission may adopt a resolution designating the area as a district if it makes the findings described in subsection (b), (c), (d), or (e). In a county described in subsection (c), an advisory commission may designate more than one (1) district under subsection (c).

(b) For an area located in a county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

(1) The area contains a building or buildings:

(A) with at least one million (1,000,000) square feet of usable interior floor space; and

(B) that is or are vacant or will become vacant due to the relocation of an employer.

(2) At least one thousand (1,000) fewer persons are employed in the area than were employed in the area during the year that is ten (10) years previous to the current year.

(3) There are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or inefficient utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination.

(4) The unit has expended, appropriated, pooled, set aside, or pledged at least one hundred thousand dollars ($100,000) for purposes of addressing the redevelopment obstacles described in subdivision (3).

(5) The area is located in a county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000).

(c) For a county having a population of more than one hundred

eighteen thousand (118,000) but less than one hundred twenty thousand (120,000), an advisory commission may adopt a resolution designating not more than two (2) areas as districts. An advisory commission may designate an area as a district only after finding the following:

(1) The area meets either of the following conditions:

(A) The area contains a building with at least seven hundred ninety thousand (790,000) square feet, and at least eight hundred (800) fewer people are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.

(B) The area contains a building with at least ~~four hundred forty thousand (440,000)~~ **three hundred eighty-six thousand (386,000)** square feet, and at least four hundred (400) fewer people are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.

(2) The area is located in or is adjacent to an industrial park.

(3) There are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or inefficient utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination.

(4) The area is located in a county having a population of more than one hundred eighteen thousand (118,000) but less than one hundred twenty thousand (120,000).

(d) For an area located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

(1) The area contains a building or buildings:

(A) with at least one million five hundred thousand (1,500,000) square feet of usable interior floor space; and

(B) that is or are vacant or will become vacant.

(2) At least eighteen thousand (18,000) fewer persons are employed in the area at the time of application than were employed in the area before the time of application.

(3) There are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or inefficient utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination.

(4) The unit has expended, appropriated, pooled, set aside, or pledged at least one hundred thousand dollars ($100,000) for purposes of addressing the redevelopment obstacles described in subdivision (3).

(5) The area is located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

(e) For an area located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

(1) The area contains a building or buildings:

(A) with at least eight hundred thousand (800,000) gross square feet; and

(B) having leasable floor space, at least fifty percent (50%) of which is or will become vacant.

(2) There are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings as evidenced by a decline of at least seventy-five percent (75%) in their assessed valuation during the preceding ten (10) years.

(B) Transportation or access problems.

(C) Environmental contamination.

(3) At least four hundred (400) fewer persons are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.

(4) The area has been designated as an economic development target area under IC 6-1.1-12.1-7.

(5) The unit has appropriated, pooled, set aside, or pledged at least two hundred fifty thousand dollars ($250,000) for purposes of addressing the redevelopment obstacles described in subdivision (2).

(6) The area is located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(f) The advisory commission, or the county or municipal legislative body, in the case of a district designated under section 10.5 of this chapter, shall designate the duration of the district. ~~but the duration may not exceed~~ **However, a district must terminate not later than** fifteen (15) years ~~(at the time of designation).~~ **after the income tax incremental amount or gross retail incremental amount is first allocated to the district.**

(g) Upon adoption of a resolution designating a district, the advisory commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. **If the budget agency fails to take action on a resolution designating a district within one hundred twenty (120) days after the date that the resolution is submitted to the budget committee, the designation of the district by the resolution is considered approved.**

(h) When considering a resolution, the budget committee and the budget agency must make the following findings:

(1) The area to be designated as a district meets the conditions necessary for designation as a district.

(2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(i) The income tax incremental amount and the gross retail incremental amount may not be allocated to the district until ~~the budget agency approves~~ the resolution **is approved under this section.**

SECTION 35. IC 36-7-13-12.1, AS ADDED BY P.L.224-2003, SECTION 239, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12.1. (a) If the executive of a city described in section 10.1(a) of this chapter has submitted an application to an advisory commission on industrial development requesting that an area be designated as a district under this chapter and the advisory commission has compiled and prepared the information required under section 11 of this chapter concerning the area, the advisory commission may adopt a resolution designating the area as a district if it finds the following:

(1) That the redevelopment of the area in the district will:

(A) promote significant opportunities for the gainful employment of its citizens;

(B) attract a major new business enterprise to the area; or

(C) retain or expand a significant business enterprise within the area.

(2) That there are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or ineffective utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination.

(G) Lack of development or cessation of growth.

(H) Deterioration of improvements or character of occupancy, age, obsolescence, or substandard buildings.

(I) Other factors that have impaired values or prevent a normal development of property or use of property.

(b) To address the obstacles identified in subsection (a)(2), the city may make expenditures for:

(1) the acquisition of land;

(2) interests in land;

(3) site improvements;

(4) infrastructure improvements;

(5) buildings;
(6) structures;
(7) rehabilitation, renovation, and enlargement of buildings and structures;
(8) machinery;
(9) equipment;
(10) furnishings;
(11) facilities;
(12) administration expenses associated with such a project;
(13) operating expenses; or
(14) substance removal or remedial action to the area.

(c) In addition to the findings described in subsection (a), an advisory commission must also find that the city described in section 10.1(a) of this chapter has expended, appropriated, pooled, set aside, or pledged at least two hundred fifty thousand dollars ($250,000) for purposes of addressing the redevelopment obstacles described in subsection (a)(2).

(d) The advisory commission shall designate the duration of the district. ~~but the duration may not exceed~~ **However, a district must terminate not later than** fifteen (15) years ~~(at the time of designation).~~ **after the income tax incremental amount or gross retail incremental amount is first allocated to the district under this chapter.**

(e) Upon adoption of a resolution designating a district, the advisory commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. **If the budget agency fails to take action on a resolution designating a district within one hundred twenty (120) days after the date that the resolution is submitted to the budget committee, the designation of the district by the resolution is considered approved.**

(f) When considering a resolution, the budget committee and the budget agency must make the following findings:
(1) The area to be designated as a district meets the conditions necessary for designation as a district.
(2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(g) The income tax incremental amount and the gross retail incremental amount may not be allocated to the district until the ~~budget agency approves the~~ resolution **is approved under this section.**

SECTION 36. IC 36-7-13-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 12.5. (a) An advisory commission on industrial development that designates a district under section 12 or 12.1 of this chapter or the legislative body of a county or municipality that adopts an ordinance designating a district under section 10.5 of this chapter may petition for permission to modify the boundaries of the district. The petition must be submitted to the budget committee for review and recommendation to the budget agency.**

(b) When considering a petition submitted under subsection (a), the budget committee and the budget agency must make the following findings:
(1) The area to be added to the district, if any, meets the conditions necessary for designation as a district under section 10.5, 12, or 12.1 of this chapter.
(2) The proposed modification of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(c) Upon approving a petition submitted under subsection (a), the budget agency shall certify the district's modified boundaries to the department of state revenue.

SECTION 37. IC 36-7-13-13, AS AMENDED BY P.L.224-2003, SECTION 240, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) If an advisory commission on industrial development designates a district under section 12 or 12.1 of this chapter or if the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter, the advisory commission, or the legislative body in the case of a district designated under section 10.5 of this chapter, shall send a certified copy of the resolution or ordinance designating the district to the department of state revenue by certified mail and shall include with the resolution a complete list of the following:
(1) Employers in the district.
(2) Street names and the range of street numbers of each street in the district.

(b) The advisory commission, or the legislative body in the case of a district designated under section 10.5 of this chapter, shall update the list:
(1) before July 1 of each year; **or**
(2) within fifteen (15) days after the date that the budget agency approves a petition to modify the boundaries of the district under section 12.5 of this chapter.

~~(b)~~ **(c)** Not later than sixty (60) days after receiving a copy of the resolution or ordinance designating a district, the department of state revenue shall determine the gross retail base period amount and the income tax base period amount.

(d) Not later than sixty (60) days after receiving a certification of a district's modified boundaries under section 12.5(c) of this chapter, the department shall recalculate the gross retail base period amount and the income tax base period amount for a district modified under section 12.5 of this chapter.

SECTION 38. IC 36-7-13-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. **(a)** Before the first business day in October of each year, the department shall calculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for each district designated under this chapter.

(b) Not later than sixty (60) days after receiving a certification of a district's modified boundaries under section 12.5(c) of this chapter, the department shall recalculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for a district modified under section 12.5 of this chapter.

SECTION 39. [EFFECTIVE JULY 1, 2004] **(a) An advisory commission or a legislative body that designated a community revitalization enhancement district before July 1, 2004, may adopt a resolution before July 1, 2005, to amend the duration of the district under IC 36-7-13-10.5, IC 36-7-13-12, or IC 36-7-13-12.1, all as amended by this act, if no income tax incremental amounts or gross retail incremental amounts have been:**
(1) deposited in the incremental tax financing fund established for the community revitalization enhancement district; or
(2) allocated to the district.

(b) If an advisory commission or a legislative body adopts a resolution under this SECTION to amend the duration of the district, the advisory commission or legislative body shall immediately send a certified copy of the resolution to the budget agency and the department of state revenue by certified mail.

(c) This SECTION expires January 1, 2006.

SECTION 40. [EFFECTIVE JULY 1, 2004] **IC 6-3.1-19-3, as amended by this act, applies only to taxable years beginning after December 31, 2004.**

SECTION 41. IC 6-8.1-3-16, AS AMENDED BY P.L.192-2002(ss), SECTION 141, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16. (a) The department shall prepare a list of all outstanding tax warrants for listed taxes each month. The list shall identify each taxpayer liable for a warrant by name, address, amount of tax, and either Social Security number or employer identification number. Unless the department renews the warrant, the department shall exclude from the list a warrant issued more than ten (10) years before the date of the list. The department shall certify a copy of the list to the bureau of motor vehicles.

(b) The department shall prescribe and furnish tax release forms for use by tax collecting officials. A tax collecting official who collects taxes in satisfaction of an outstanding warrant shall issue to the taxpayers named on the warrant a tax release stating that the tax has been paid. The department may also issue a tax release:
(1) to a taxpayer who has made arrangements satisfactory to the department for the payment of the tax; or

(2) by action of the commissioner under IC 6-8.1-8-2(k).

(c) The department may not issue or renew:

(1) a certificate under IC 6-2.5-8;

(2) a license under IC 6-6-1.1 or IC 6-6-2.5; or

(3) a permit under IC 6-6-4.1;

to a taxpayer whose name appears on the most recent monthly warrant list, unless that taxpayer pays the tax, makes arrangements satisfactory to the department for the payment of the tax, or a release is issued under IC 6-8.1-8-2(k).

(d) The bureau of motor vehicles shall, before issuing the title to a motor vehicle under IC 9-17, determine whether the purchaser's or assignee's name is on the most recent monthly warrant list. If the purchaser's or assignee's name is on the list, the bureau shall enter as a lien on the title the name of the state as the lienholder unless the bureau has received notice from the commissioner under IC 6-8.1-8-2(k). The tax lien on the title:

(1) is subordinate to a perfected security interest (as defined and perfected in accordance with IC 26-1-9.1); and

(2) shall otherwise be treated in the same manner as other title liens.

(e) The commissioner is the custodian of all titles for which the state is the sole lienholder under this section. Upon receipt of the title by the department, the commissioner shall notify the owner of the department's receipt of the title.

(f) The department shall reimburse the bureau of motor vehicles for all costs incurred in carrying out this section.

(g) Notwithstanding IC 6-8.1-8, a person who is authorized to collect taxes, interest, or penalties on behalf of the department under IC 6-3 or IC 6-3.5 may not, except as provided in subsection (h) or (i), receive a fee for collecting the taxes, interest, or penalties if:

(1) the taxpayer pays the taxes, interest, or penalties as consideration for the release of a lien placed under subsection (d) on a motor vehicle title; or

(2) the taxpayer has been denied a certificate or license under subsection (c) within sixty (60) days before the date the taxes, interest, or penalties are collected.

(h) In the case of a sheriff, subsection (g) does not apply if:

(1) the sheriff collects the taxes, interest, or penalties within sixty (60) days after the date the sheriff receives the tax warrant; or

(2) the sheriff collects the taxes, interest, or penalties through the sale or redemption, in a court proceeding, of a motor vehicle that has a lien placed on its title under subsection (d).

(i) In the case of a person other than a sheriff:

(1) subsection (g)(2) does not apply if the person collects the taxes, interests, or penalties within sixty (60) days after the date the commissioner employs the person to make the collection; and

(2) subsection (g)(1) does not apply if the person collects the taxes, interest, or penalties through the sale or redemption, in a court proceeding, of a motor vehicle that has a lien placed on its title under subsection (d).

(j) IC 5-14-3-4, IC 6-8.1-7-1, and any other law exempting information from disclosure by the department does not apply to this subsection. From the list prepared under subsection (a), the department shall compile each month a list of the taxpayers subject to tax warrants that:

(1) were issued at least twenty-four (24) months before the date of the list; and

(2) are for amounts that exceed one thousand dollars ($1,000).

The list compiled under this subsection must identify each taxpayer liable for a warrant by name, address, and amount of tax. The department shall publish the list compiled under this subsection on accessIndiana (as defined in IC 5-21-1-1.5) and make the list available for public inspection and copying under IC 5-14-3. The department or an agent, employee, or officer of the department is immune from liability for the publication of information under this subsection.

(k) The department may not publish a list under subsection (j) that identifies a particular taxpayer unless at least two (2) weeks before the publication of the list the department sends notice to the taxpayer stating that the taxpayer:

(1) is subject to a tax warrant that:

(A) was issued at least twenty-four (24) months before the date of the notice; and

(B) is for an amount that exceeds one thousand dollars ($1,000); and

(2) will be identified on a list to be published on accessIndiana unless a tax release is issued to the taxpayer under subsection (b).

(l) The department may not publish a list under subsection (j) after June 30, 2006.

SECTION 42. IC 34-30-2-16.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 16.7. IC 6-8.1-3-16(j) (Concerning the department of state revenue for publishing a list of delinquent taxpayers).**

SECTION 43. IC 4-4-32 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 32. Twenty-First Century Research and Technology Fund Grant Office

Sec. 1. As used in this chapter, "office" refers to the grant office established by section 3 of this chapter.

Sec. 2. As used in this chapter, "fund" refers to the Indiana twenty-first century research and technology fund established by IC 4-4-5.1-3.

Sec. 3. The fund board may establish and administer a grant office to assist state agencies, units of local government, public and private colleges and universities, private sector for-profit and nonprofit entities, and other entities in Indiana in researching, developing, and receiving grants and funding from:

(1) the federal government;

(2) private foundations; or

(3) any other source of funding.

Sec. 4. The office may do the following:

(1) Work with and coordinate with state, university, and private entities that are responsible for the identification and acquisition of research and development grants and funds and other sources of assistance to do the following:

(A) Share information.

(B) Leverage skills and assets.

(C) Jointly market their respective programs to the widest possible population in Indiana.

(2) Serve as a repository and clearinghouse for information concerning available research and development grants and funds and other sources of assistance.

Sec. 5. The office may establish and maintain a list of all:

(1) Indiana state and local governmental entities;

(2) public and private colleges and universities; and

(3) private sector for-profit and nonprofit entities;

that are actively seeking research and development money and may benefit from assistance in acquiring research and development funding from a source described in section 3 of this chapter.

Sec. 6. (a) The office may assist potential funding recipients described in section 5 of this chapter in preparing applications and all other documentation to aggressively seek funding.

(b) The office may give priority to assisting the following:

(1) Highly ranked applicants for grants from the fund.

(2) Entities with proposal concepts that the fund board determines are consistent with state strategic objectives.

(3) Opportunities with strong commercial potential for Indiana.

(4) Opportunities that have substantial private entity interest and participation.

Sec. 7. The office may accept:

(1) appropriations from the general assembly; and

(2) gifts and donations from any other source;

to further the activities of the office.

SECTION 44. IC 4-4-5.2 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 5.2. Emerging Technology Grant Fund

Sec. 1. As used in this chapter, "board" refers to the Indiana twenty-first century research and technology fund board

established by IC 4-4-5.1-6.

Sec. 2. As used in this chapter, "fund" refers to the emerging technology grant fund established by section 5 of this chapter.

Sec. 3. As used in this chapter, "small business" means a business that satisfies all the following:

(1) The business is independently owned and operated.

(2) The principal office of the business is located in Indiana.

(3) The business satisfies either of the following:

(A) The business has not more than:

(i) one hundred (100) employees; and

(ii) average annual gross receipts of ten million dollars ($10,000,000).

(B) If the business is a manufacturing business, the business does not have more than one hundred (100) employees.

Sec. 4. As used in this chapter, "small sized technology based business" means a small business engaged in any of the following:

(1) Life sciences.

(2) Information technology.

(3) Advanced manufacturing.

(4) Logistics.

Sec. 5. (a) The emerging technology grant fund is established to provide grants to match federal grants for small sized technology based businesses to be used to accelerate commercialization of emerging technologies.

(b) The fund consists of appropriations from the general assembly and gifts and grants to the fund.

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

(d) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for purposes of this chapter.

(e) Money in the fund is continuously appropriated for the purposes of this chapter.

Sec. 6. The purpose of the grant program is to do the following:

(1) Assist Indiana businesses to compete nationally for federal research and development awards.

(2) Provide matching grants that focus on small sized technology based businesses in industry sectors vital to Indiana's economic growth.

Sec. 7. (a) The board shall administer the grant program under this chapter.

(b) The board shall award grants to support projects that leverage private sector, federal, and state resources to create new globally competitive commercial products or services that will enhance economic growth and job creation in Indiana.

(c) The board may award grants only to businesses that receive federal grant awards.

(d) In awarding grants, the board shall give preference to proposals from businesses that include other Indiana based organizations. However, the amount of the grant may be measured only against the federal money allocated to the small sized technology based business partner.

(e) The board shall consider the following when making grants under this chapter:

(1) Whether the grant will increase the viability of the applicant's project.

(2) Whether the grant will attract additional federal research, development, and commercialization money.

(3) Whether the grant will assist in accelerating the introduction of technology based products in the market.

(4) Whether the grant will produce additional technology based jobs in Indiana.

(5) Other factors the board considers relevant.

(f) An applicant for a grant under this chapter must be in the process of applying for, have applied for, or have received a federal grant for the proposed project. If the applicant has already received a federal grant for the proposed project, the start date of the federal award must be after June 30, 2003.

(g) Any federal program may serve as the basis for a grant under this chapter if all the following are satisfied:

(1) The applicant's federal proposal is a response to a nationally competitive federal solicitation.

(2) The federal program provides money to develop, revise, or commercialize a new technology.

(3) The federal program accepts matching funds.

(4) The applicant's federal proposal includes the state as a potential funding source.

Sec. 8. Before July 1 of each year, the board shall establish and publish guidelines determining the following:

(1) Priority industries and technological areas for grants under this chapter.

(2) Matching levels for the different priorities established under subdivision (1). The matching level may not be more than one dollar ($1) for each federal dollar received by an applicant.

(3) The maximum dollar amount that may be awarded for a proposal. The maximum dollar amount may not exceed one hundred fifty thousand dollars ($150,000) for each business for each proposal.

SECTION 45. IC 36-1-8-5.1, AS AMENDED BY P.L.267-2003, SECTION 15, AND P.L.173-2003, SECTION 19, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) A political subdivision may establish a rainy day fund ~~*to receive transfers of unused and unencumbered funds under: (1) section 5 of this chapter; (2) IC 6-3.5-1.1-21.1; (3) IC 6-3.5-6-17.3; and (4) IC 6-3.5-7-17.3.*~~ *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, **which may include the following:**

(A) Unused and unencumbered funds under:

(i) section 5 of this chapter;

(ii) IC 6-3.5-1.1-21.1;

(iii) IC 6-3.5-6-17.3; or

(iv) IC 6-3.5-7-17.3.

(B) Any other funding source:

(i) specified in the ordinance or resolution adopted under this section; and

(ii) not otherwise prohibited by law.

~~*(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 *under section 5 of this chapter* not more than ten percent (10%) of the political subdivision's total *annual* budget for that fiscal year, *adopted under IC 6-1.1-17,* to the rainy day fund.

~~*(d)*~~ *(e) A political subdivision may use only the funding sources specified in* **subsection (b)(2)(A) or in** *the ordinance or resolution establishing the rainy day fund.* ~~*unless*~~ *The political subdivision* ~~*adopts*~~ **may adopt** *a subsequent ordinance or resolution authorizing the use of another funding source.*

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

SECTION 46. IC 36-4-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Municipalities are classified according to their status and population as follows:

STATUS AND POPULATION	CLASS
Cities of ~~250,000~~ **500,000** or more	First class cities
Cities of 35,000 to ~~249,999~~ **499,999**	Second class cities
Cities of less than 35,000	Third class cities
Other municipalities of any population	Towns

(b) Except as provided in subsection (c), a city that attains a population of thirty-five thousand (35,000) remains a second class city even though its population decreases to less than thirty-five thousand (35,000) at the next federal decennial census.

(c) The legislative body of a city to which subsection (b) applies may, by ordinance, adopt third class city status.

SECTION 47. IC 36-9-41 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 41. Financing of Public Work Projects by Political Subdivisions

Sec. 1. This chapter applies to a public work project that will cost the political subdivision not more than two million dollars ($2,000,000).

Sec. 2. As used in this chapter, "public work" means a project for the construction of any public building, highway, street, alley, bridge, sewer, drain, or any other public facility that is paid for out of public funds.

Sec. 3. Notwithstanding any other statute, a political subdivision may borrow the money necessary to finance a public work project from a financial institution in Indiana by executing a negotiable note under section 4 of this chapter. The political subdivision shall provide notice of its determination to issue the note under IC 5-3-1. Money borrowed under this chapter is chargeable against the political subdivision's constitutional debt limitation.

Sec. 4. A political subdivision borrowing money under section 3 of this chapter shall execute and deliver to the financial institution the negotiable note of the political subdivision for the sum borrowed. The note must bear interest, with both principal and interest payable in equal or approximately equal installments on January 1 and July 1 each year over a period not exceeding six (6) years.

Sec. 5. (a) The first installment of principal and interest on a note executed under this chapter is due on the next January 1 or July 1 following the first tax collection for which it is possible for the political subdivision to levy a tax under subsection (b).

(b) The political subdivision shall appropriate an amount for and levy a tax each year sufficient to pay the political subdivision's obligation under the note according to its terms.

(c) An obligation of a political subdivision under a note executed under this chapter is a valid and binding obligation of the political subdivision, notwithstanding any tax limitation, debt limitation, bonding limitation, borrowing limitation, or other statute to the contrary.

Sec. 6. If a political subdivision gives notice under section 3 of this chapter of its determination that money should be borrowed under this chapter, not less than ten (10) taxpayers in the political subdivision who disagree with the determination may file a petition in the office of the county auditor not more than thirty (30) days after notice of the determination is given. The petition must state the taxpayers' objections and the reasons why the taxpayers believe the borrowing to be unnecessary or unwise.

Sec. 7. (a) Upon receiving a petition under section 6 of this chapter, the county auditor shall immediately certify a copy of the petition, together with other data necessary to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and other data, the department of local government finance shall fix a time and place for a hearing on the matter.

(b) The hearing shall be held not less than five (5) and not more than thirty (30) days after the department's receipt of the certified petition, and shall be held in the county where the petition arose.

(c) The department of local government finance shall give notice of the hearing by letter to the political subdivision and to the first ten (10) taxpayer petitioners listed on the petition. A copy of the letter shall be sent to each of the first ten (10) taxpayer petitioners at the taxpayer's usual place of residence at least five (5) days before the date of the hearing. In addition, public notice shall be published at least five (5) days before the date of the hearing under IC 5-3-1.

(d) After the hearing under subsection (c), the department of local government shall issue a final determination concerning the petition.

Sec. 8. A:

(1) taxpayer who signed a petition filed under section 6 of this chapter; or

(2) political subdivision against which a petition is filed under section 6 of this chapter;

may petition the tax court established by IC 33-3-5-1 for judicial review of the final determination of the department of local government finance on the taxpayers' petition. The petition for judicial review must be filed in the tax court not more than forty-five (45) days after the date of the department's final determination.

SECTION 48. IC 6-1.1-12.1-1, AS AMENDED BY P.L.4-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. For purposes of this chapter:

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

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

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

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

(3) "New manufacturing equipment" means any tangible personal property which:

(A) was installed after February 28, 1983, and before January 1, 2006, in an area that is declared an economic revitalization area after February 28, 1983, in which a deduction for tangible personal property is allowed;

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

(C) was acquired by its owner for use as described in clause (B) and was never before used by its owner for any purpose in Indiana.

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

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

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

(A) on unimproved real estate; or

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

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

(7) "Designating body" means the following:

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

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

(8) "Deduction application" means either:

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

(B) the application filed in accordance with section 5.5 of this chapter by a person who desires to obtain the deduction

provided by section 4.5 of this chapter.

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

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

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

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

(A) is installed after June 30, 2000, and before January 1, 2006, in an economic revitalization area in which a deduction for tangible personal property is allowed;

(B) consists of:

(i) laboratory equipment;

(ii) research and development equipment;

(iii) computers and computer software;

(iv) telecommunications equipment; or

(v) testing equipment;

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

(D) is acquired by the property owner for purposes described in this subdivision and was never before used by the owner for any purpose in Indiana.

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

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

(A) is installed after June 30, 2004, and before January 1, 2006, in an economic revitalization area:

(i) in which a deduction for tangible personal property is allowed; and

(ii) located in a county referred to in section 2.3 of this chapter, subject to section 2.3(c) of this chapter.

(B) consists of:

(i) racking equipment;

(ii) scanning or coding equipment;

(iii) separators;

(iv) conveyors;

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

(vi) transitional moving equipment;

(vii) packaging equipment;

(viii) sorting and picking equipment; or

(ix) software for technology used in logistical distribution;

(C) is used for the storage or distribution of goods, services, or information; and

(D) before being used as described in clause (C), was never used by its owner for any purpose in Indiana.

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

(A) is installed after June 30, 2004, and before January 1, 2006, in an economic revitalization area:

(i) in which a deduction for tangible personal property is allowed; and

(ii) located in a county referred to in section 2.3 of this chapter, subject to section 2.3(c) of this chapter.

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

(i) information processing;

(ii) office automation;

(iii) telecommunication facilities and networks;

(iv) informatics;

(v) network administration;

(vi) software development; and

(vii) fiber optics; and

(C) before being installed as described in clause (A), was never used by its owner for any purpose in Indiana.

SECTION 49. IC 6-1.1-12.1-2, AS AMENDED BY P.L.4-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) A designating body may find that a particular area within its jurisdiction is an economic revitalization area. However, the deduction provided by this chapter for economic revitalization areas not within a city or town shall not be available to retail businesses.

(b) In a county containing a consolidated city or within a city or town, a designating body may find that a particular area within its jurisdiction is a residentially distressed area. Designation of an area as a residentially distressed area has the same effect as designating an area as an economic revitalization area, except that the amount of the deduction shall be calculated as specified in section 4.1 of this chapter and the deduction is allowed for not more than five (5) years. In order to declare a particular area a residentially distressed area, the designating body must follow the same procedure that is required to designate an area as an economic revitalization area and must make all the following additional findings or all the additional findings described in subsection (c):

(1) The area is comprised of parcels that are either unimproved or contain only one (1) or two (2) family dwellings or multifamily dwellings designed for up to four (4) families, including accessory buildings for those dwellings.

(2) Any dwellings in the area are not permanently occupied and are:

(A) the subject of an order issued under IC 36-7-9; or

(B) evidencing significant building deficiencies.

(3) Parcels of property in the area:

(A) have been sold and not redeemed under IC 6-1.1-24 and IC 6-1.1-25; or

(B) are owned by a unit of local government.

However, in a city in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the designating body is only required to make one (1) of the additional findings described in this subsection or one (1) of the additional findings described in subsection (c).

(c) In a county containing a consolidated city or within a city or town, a designating body that wishes to designate a particular area a residentially distressed area may make the following additional findings as an alternative to the additional findings described in subsection (b):

(1) A significant number of dwelling units within the area are not permanently occupied or a significant number of parcels in the area are vacant land.

(2) A significant number of dwelling units within the area are:

(A) the subject of an order issued under IC 36-7-9; or

(B) evidencing significant building deficiencies.

(3) The area has experienced a net loss in the number of dwelling units, as documented by census information, local building and demolition permits, or certificates of occupancy, or the area is owned by Indiana or the United States.

(4) The area (plus any areas previously designated under this subsection) will not exceed ten percent (10%) of the total area within the designating body's jurisdiction.

However, in a city in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the designating body is only required to make one (1) of the additional findings described in this subsection as an alternative to one (1) of the additional findings described in subsection (b).

(d) A designating body is required to attach the following conditions to the grant of a residentially distressed area designation:

(1) The deduction will not be allowed unless the dwelling is rehabilitated to meet local code standards for habitability.

(2) If a designation application is filed, the designating body may require that the redevelopment or rehabilitation be completed within a reasonable period of time.

(e) To make a designation described in subsection (a) or (b), the designating body shall use procedures prescribed in section 2.5 of this

chapter.

(f) The property tax deductions provided by sections 3 and 4.5 of this chapter are only available within an area which the designating body finds to be an economic revitalization area.

(g) The designating body may adopt a resolution establishing general standards to be used, along with the requirements set forth in the definition of economic revitalization area, by the designating body in finding an area to be an economic revitalization area. The standards must have a reasonable relationship to the development objectives of the area in which the designating body has jurisdiction. The following three (3) sets of standards may be established:

(1) One (1) relative to the deduction under section 3 of this chapter for economic revitalization areas that are not residentially distressed areas.

(2) One (1) relative to the deduction under section 3 of this chapter for residentially distressed areas.

(3) One (1) relative to the deduction allowed under section 4.5 of this chapter.

(h) A designating body may impose a fee for filing a designation application for a person requesting the designation of a particular area as an economic revitalization area. The fee may be sufficient to defray actual processing and administrative costs. However, the fee charged for filing a designation application for a parcel that contains one (1) or more owner-occupied, single-family dwellings may not exceed the cost of publishing the required notice.

(i) In declaring an area an economic revitalization area, the designating body may:

(1) limit the time period to a certain number of calendar years during which the area shall be so designated;

(2) limit the type of deductions that will be allowed within the economic revitalization area to either the deduction allowed under section 3 of this chapter or the deduction allowed under section 4.5 of this chapter;

(3) limit the dollar amount of the deduction that will be allowed with respect to new manufacturing equipment, ~~and~~ new research and development equipment, **new logistical distribution equipment, and new information technology equipment** if a deduction under this chapter had not been filed before July 1, 1987, for that equipment;

(4) limit the dollar amount of the deduction that will be allowed with respect to redevelopment and rehabilitation occurring in areas that are designated as economic revitalization areas on or after September 1, 1988; or

(5) impose reasonable conditions related to the purpose of this chapter or to the general standards adopted under subsection (g) for allowing the deduction for the redevelopment or rehabilitation of the property or the installation of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both.~~ **new logistical distribution equipment, or new information technology equipment.**

To exercise one (1) or more of these powers a designating body must include this fact in the resolution passed under section 2.5 of this chapter.

(j) Notwithstanding any other provision of this chapter, if a designating body limits the time period during which an area is an economic revitalization area, that limitation does not:

(1) prevent a taxpayer from obtaining a deduction for new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** installed before January 1, 2006, but after the expiration of the economic revitalization area if:

(A) the economic revitalization area designation expires after December 30, 1995; and

(B) the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** was described in a statement of benefits submitted to and approved by the designating body in accordance with section 4.5 of this chapter before the expiration of the economic revitalization area designation; or

(2) limit the length of time a taxpayer is entitled to receive a deduction to a number of years that is less than the number of years designated under section 4 or 4.5 of this chapter.

(k) Notwithstanding any other provision of this chapter, deductions:

(1) that are authorized under section 3 of this chapter for property in an area designated as an urban development area before March 1, 1983, and that are based on an increase in assessed valuation resulting from redevelopment or rehabilitation that occurs before March 1, 1983; or

(2) that are authorized under section 4.5 of this chapter for new manufacturing equipment installed in an area designated as an urban development area before March 1, 1983;

apply according to the provisions of this chapter as they existed at the time that an application for the deduction was first made. No deduction that is based on the location of property or new manufacturing equipment in an urban development area is authorized under this chapter after February 28, 1983, unless the initial increase in assessed value resulting from the redevelopment or rehabilitation of the property or the installation of the new manufacturing equipment occurred before March 1, 1983.

(l) If property located in an economic revitalization area is also located in an allocation area (as defined in IC 36-7-14-39 or IC 36-7-15.1-26), an application for the property tax deduction provided by this chapter may not be approved unless the commission that designated the allocation area adopts a resolution approving the application.

SECTION 50. IC 6-1.1-12.1-2.3 IS ADDED AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Sec. 2.3. (a) This section applies only to:

(1) a county in which mile markers fourteen (14) through one hundred twenty (120) of Interstate Highway 69 are located as of March 1, 2004; and

(2) a city or town located in a county referred to in subdivision (1).

(b) A designating body may adopt a resolution under section 2.5 of this chapter to authorize a deduction for new logistical distribution equipment or new information technology equipment.

(c) If any amendment to this chapter that takes effect July 1, 2004, applies a deduction under this chapter for new logistical distribution equipment or new information technology equipment to a broader geographic area than the deduction that would apply under a resolution adopted under this section, the more broadly applied deduction controls with respect to the application of the deduction for new logistical distribution equipment or new information technology equipment.

SECTION 51. IC 6-1.1-12.1-4.5, AS AMENDED BY P.L.1-2003, SECTION 22, AND AS AMENDED BY P.L.245-2003, SECTION 8, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4.5. (a) For purposes of this section, "personal property" means personal property other than inventory (as defined in IC 6-1.1-3-11(a)).

(b) An applicant must provide a statement of benefits to the designating body. The applicant must provide the completed statement of benefits form to the designating body before the hearing specified in section 2.5(c) of this chapter or before the installation of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** for which the person desires to claim a deduction under this chapter. The department of local government finance shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

(1) A description of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** that the person proposes to acquire.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment, **new logistical distribution equipment, or new information technology equipment;**

an estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the installation of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** and an estimate of the annual salaries of these individuals.

(3) An estimate of the cost of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both.~~ **new logistical distribution equipment, or new information technology equipment.**

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, an estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products by the new manufacturing equipment.

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

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

(1) Whether the estimate of the cost of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** is reasonable for equipment of that type.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment, **new logistical distribution equipment, or new information technology equipment;**

whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the installation of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both.~~ **new logistical distribution equipment, or new information technology equipment.**

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed installation of new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both.~~ **new logistical distribution equipment, or new information technology equipment.**

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, whether the estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products can be reasonably expected to result from the installation of the new manufacturing equipment.

(5) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed installation of new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both.~~ **new logistical distribution equipment, or new information technology equipment.**

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

The designating body may not designate an area an economic revitalization area or approve the deduction unless it makes the findings required by this subsection in the affirmative.

(d) Except as provided in subsection (h), an owner of new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** whose statement of benefits is approved after June 30, 2000, is entitled to a deduction from the assessed value of that equipment for the number of years determined by the designating body under subsection (g). Except as provided in subsection (f) and in section 2(i)(3) of this chapter, the amount of the deduction that an owner is entitled to for a particular year equals the product of:

(1) the assessed value of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** in the year of deduction under the appropriate table set forth in subsection (e); multiplied by

(2) the percentage prescribed in the *appropriate* table set forth in subsection (e).

(e) The percentage to be used in calculating the deduction under subsection (d) is as follows:

(1) For deductions allowed over a one (1) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd and thereafter	0%

(2) For deductions allowed over a two (2) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	50%
3rd and thereafter	0%

(3) For deductions allowed over a three (3) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	66%
3rd	33%
4th and thereafter	0%

(4) For deductions allowed over a four (4) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	75%
3rd	50%
4th	25%
5th and thereafter	0%

(5) For deductions allowed over a five (5) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	80%
3rd	60%
4th	40%
5th	20%
6th and thereafter	0%

(6) For deductions allowed over a six (6) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	66%
4th	50%
5th	34%
6th	25%
7th and thereafter	0%

(7) For deductions allowed over a seven (7) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	71%
4th	57%
5th	43%
6th	29%
7th	14%
8th and thereafter	0%

(8) For deductions allowed over an eight (8) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	75%
4th	63%
5th	50%
6th	38%
7th	25%
8th	13%

9th and thereafter	0%

(9) For deductions allowed over a nine (9) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	77%
4th	66%
5th	55%
6th	44%
7th	33%
8th	22%
9th	11%
10th and thereafter	0%

(10) For deductions allowed over a ten (10) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	90%
3rd	80%
4th	70%
5th	60%
6th	50%
7th	40%
8th	30%
9th	20%
10th	10%
11th and thereafter	0%

(f) With respect to new manufacturing equipment and new research and development equipment installed before March 2, 2001, the deduction under this section is the amount that causes the net assessed value of the property after the application of the deduction under this section to equal the net assessed value after the application of the deduction under this section that results from computing:

(1) the deduction under this section as in effect on March 1, 2001; and

(2) the assessed value of the property under 50 IAC 4.2, as in effect on March 1, 2001, or, in the case of property subject to IC 6-1.1-8, 50 IAC 5.1, as in effect on March 1, 2001.

(g) For an economic revitalization area designated before July 1, 2000, the designating body shall determine whether a property owner whose statement of benefits is approved after April 30, 1991, is entitled to a deduction for five (5) or ten (10) years. For an economic revitalization area designated after June 30, 2000, the designating body shall determine the number of years the deduction is allowed. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

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

(2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor.

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

(h) The owner of new manufacturing equipment that is directly used to dispose of hazardous waste is not entitled to the deduction provided by this section for a particular assessment year if during that assessment year the owner:

(1) is convicted of a violation under IC 13-7-13-3 (repealed), IC 13-7-13-4 (repealed), or IC 13-30-6; or

(2) is subject to an order or a consent decree with respect to property located in Indiana based on a violation of a federal or state rule, regulation, or statute governing the treatment, storage, or disposal of hazardous wastes that had a major or moderate potential for harm.

SECTION 52. IC 6-1.1-12.1-5.4, AS AMENDED BY P.L.245-2003, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.4. (a) A person that desires to obtain the deduction provided by section 4.5 of this chapter must file a certified deduction application on forms prescribed by the department of local government finance with the auditor of the county in which the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** is located. A person that timely files a personal property return under IC 6-1.1-3-7(a) for the year in which the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** is installed must file the application between March 1 and May 15 of that year. A person that obtains a filing extension under IC 6-1.1-3-7(b) for the year in which the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** is installed must file the application between March 1 and the extended due date for that year.

(b) The deduction application required by this section must contain the following information:

(1) The name of the owner of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both.~~ **new logistical distribution equipment, or new information technology equipment.**

(2) A description of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both.~~ **new logistical distribution equipment, or new information technology equipment.**

(3) Proof of the date the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** was installed.

(4) The amount of the deduction claimed for the first year of the deduction.

(c) This subsection applies to a deduction application with respect to new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** for which a statement of benefits was initially approved after April 30, 1991. If a determination about the number of years the deduction is allowed has not been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall send a copy of the deduction application to the designating body, and the designating body shall adopt a resolution under section 4.5(g)(2) of this chapter.

(d) A deduction application must be filed under this section in the year in which the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** is installed and in each of the immediately succeeding years the deduction is allowed.

(e) Subject to subsection (i), the county auditor shall:

(1) review the deduction application; and

(2) approve, deny, or alter the amount of the deduction.

Upon approval of the deduction application or alteration of the amount of the deduction, the county auditor shall make the deduction. The county auditor shall notify the county property tax assessment board of appeals of all deductions approved under this section.

(f) If the ownership of new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** changes, the deduction provided under section 4.5 of this chapter continues to apply to that equipment if the new owner:

(1) continues to use the equipment in compliance with any standards established under section 2(g) of this chapter; and

(2) files the deduction applications required by this section.

(g) The amount of the deduction is the percentage under section 4.5 of this chapter that would have applied if the ownership of the property had not changed multiplied by the assessed value of the equipment for the year the deduction is claimed by the new owner.

(h) A person may appeal the determination of the county auditor under subsection (e) by filing a complaint in the office of the clerk of the circuit or superior court not more than forty-five (45) days after the county auditor gives the person notice of the determination.

(i) Before the county auditor acts under subsection (e), the county auditor may request that the township assessor in which the property is located review the deduction application.

SECTION 53. IC 6-1.1-12.1-5.6, AS AMENDED BY P.L.4-2000, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.6. (a) This subsection applies

to a property owner whose statement of benefits was approved under section 4.5 of this chapter before July 1, 1991. In addition to the requirements of section 5.5(b) of this chapter, a deduction application filed under section 5.5 of this chapter must contain information showing the extent to which there has been compliance with the statement of benefits approved under section 4.5 of this chapter. Failure to comply with a statement of benefits approved before July 1, 1991, may not be a basis for rejecting a deduction application.

(b) This subsection applies to a property owner whose statement of benefits was approved under section 4.5 of this chapter after June 30, 1991. In addition to the requirements of section 5.5(b) of this chapter, a property owner who files a deduction application under section 5.5 of this chapter must provide the county auditor and the designating body with information showing the extent to which there has been compliance with the statement of benefits approved under section 4.5 of this chapter.

(c) Notwithstanding IC 5-14-3 and IC 6-1.1-35-9, the following information is a public record if filed under this section:

(1) The name and address of the taxpayer.

(2) The location and description of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** for which the deduction was granted.

(3) Any information concerning the number of employees at the facility where the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** is located, including estimated totals that were provided as part of the statement of benefits.

(4) Any information concerning the total of the salaries paid to those employees, including estimated totals that were provided as part of the statement of benefits.

(5) Any information concerning the amount of solid waste or hazardous waste converted into energy or other useful products by the new manufacturing equipment.

(6) Any information concerning the assessed value of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** including estimates that were provided as part of the statement of benefits.

(d) The following information is confidential if filed under this section:

(1) Any information concerning the specific salaries paid to individual employees by the owner of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both.~~ **new logistical distribution equipment, or new information technology equipment.**

(2) Any information concerning the cost of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both.~~ **new logistical distribution equipment, or new information technology equipment.**

SECTION 54. IC 6-1.1-12.1-5.8, AS AMENDED BY P.L.256-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.8. In lieu of providing the statement of benefits required by section 3 or 4.5 of this chapter and the additional information required by section 5.1 or 5.6 of this chapter, the designating body may, by resolution, waive the statement of benefits if the designating body finds that the purposes of this chapter are served by allowing the deduction and the property owner has, during the thirty-six (36) months preceding the first assessment date to which the waiver would apply, installed new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** or developed or rehabilitated property at a cost of at least ten million dollars ($10,000,000) as determined by the assessor of the township in which the property is located.

SECTION 55. IC 6-1.1-12.1-8, AS AMENDED BY P.L.90-2002, SECTION 125, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) Not later than December 31 of each year, the county auditor shall publish the following in a newspaper of general interest and readership and not one of limited subject matter:

(1) A list of the approved deduction applications that were filed under this chapter during that year. The list must contain the following:

(A) The name and address of each person approved for or receiving a deduction that was filed for during the year.

(B) The amount of each deduction that was filed for during the year.

(C) The number of years for which each deduction that was filed for during the year will be available.

(D) The total amount for all deductions that were filed for and granted during the year.

(2) The total amount of all deductions for real property that were in effect under section 3 of this chapter during the year.

(3) The total amount of all deductions for new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** that were in effect under section 4.5 of this chapter during the year.

(b) The county auditor shall file the information described in subsection (a)(2) and (a)(3) with the department of local government finance not later than December 31 of each year.

SECTION 56. IC 6-1.1-12.1-11.3, AS AMENDED BY P.L.245-2003, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11.3. (a) This section applies only to the following requirements:

(1) Failure to provide the completed statement of benefits form to the designating body before the hearing required by section 2.5(c) of this chapter.

(2) Failure to submit the completed statement of benefits form to the designating body before the initiation of the redevelopment or rehabilitation or the installation of new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** for which the person desires to claim a deduction under this chapter.

(3) Failure to designate an area as an economic revitalization area before the initiation of the:

(A) redevelopment;

(B) installation of new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment;** or

(C) rehabilitation;

for which the person desires to claim a deduction under this chapter.

(4) Failure to make the required findings of fact before designating an area as an economic revitalization area or authorizing a deduction for new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** under section 2, 3, or 4.5 of this chapter.

(5) Failure to file a:

(A) timely; or

(B) complete;

deduction application under section 5 or 5.4 of this chapter.

(b) This section does not grant a designating body the authority to exempt a person from filing a statement of benefits or exempt a designating body from making findings of fact.

(c) A designating body may by resolution waive noncompliance described under subsection (a) under the terms and conditions specified in the resolution. Before adopting a waiver under this subsection, the designating body shall conduct a public hearing on the waiver.

SECTION 57. IC 6-1.1-12.1-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 14. (a) This section does not apply to:**

(1) a deduction under section 3 of this chapter for property located in a residentially distressed area; or

(2) any other deduction under section 3 or 4.5 of this chapter for which a statement of benefits was approved

before July 1, 2004.

(b) A property owner that receives a deduction under section 3 or 4.5 of this chapter is subject to this section only if the designating body, with the consent of the property owner, incorporates this section, including the percentage to be applied by the county auditor for purposes of STEP TWO of subsection (c), into its initial approval of the property owner's statement of benefits and deduction at the time of that approval.

(c) During each year in which a property owner's property tax liability is reduced by a deduction granted under this chapter, the property owner shall pay to the county treasurer a fee in an amount determined by the county auditor. The county auditor shall determine the amount of the fee to be paid by the property owner according to the following formula:

STEP ONE: Determine the additional amount of property taxes that would have been paid by the property owner during the year if the deduction had not been in effect.

STEP TWO: Multiply the amount determined under STEP ONE by the percentage determined by the designating body under subsection (b), which may not exceed fifteen percent (15%). The percentage determined by the designating body remains in effect throughout the term of the deduction and may not be changed.

STEP THREE: Determine the lesser of the STEP TWO product or one hundred thousand dollars ($100,000).

(d) Fees collected under this section must be distributed to one (1) or more public or nonprofit entities established to promote economic development within the corporate limits of the city, town, or county served by the designating body. The designating body shall notify the county auditor of the entities that are to receive distributions under this section and the relative proportions of those distributions. The county auditor shall distribute fees collected under this section in accordance with the designating body's instructions.

(e) If the designating body determines that a property owner has not paid a fee imposed under this section, the designating body may adopt a resolution terminating the property owner's deduction under section 3 or 4.5 of this chapter. If the designating body adopts such a resolution, the deduction does not apply to the next installment of property taxes owed by the property owner or to any subsequent installment of property taxes.

SECTION 58. IC 6-1.1-4-40 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2004 (RETROACTIVE)]: **Sec. 40. The value of federal income tax credits awarded under Section 42 of the Internal Revenue Code may not be considered in determining the assessed value of low income housing tax credit property.**

SECTION 59. THE FOLLOWING ARE REPEALED [EFFECTIVE APRIL 1, 2004]: IC 6-2.5-4-4.5; IC 6-2.5-6-15.

SECTION 60. IC 6-2.5-5-15 IS REPEALED [EFFECTIVE JULY 1, 2004].

SECTION 61. IC 9-18-9-4 IS REPEALED [EFFECTIVE JULY 1, 2004].

SECTION 62. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)] **(a) IC 6-2.5-3-5, as amended by this act, applies only to vehicles, watercraft, and aircraft that are initially titled, registered, or licensed in Indiana after June 30, 2004.**

(b) IC 6-2.5-4-11, as amended by this act, applies only to transactions occurring after March 1, 2004. A retail transaction to which IC 6-2.5-4-11, as amended by this act, applies shall be considered as having occurred after March 1, 2004, if charges are collected for the retail transactions upon original statements and billings dated after March 31, 2004.

(c) IC 6-2.5-8-10, as amended by this act, and the repeal of IC 6-2.5-5-15 by this act apply only to retail transactions occurring after June 30, 2004. A retail transaction shall be considered as having occurred after June 30, 2004, to the extent that delivery of the property or services constituting selling at retail is made after that date to the purchaser or to the place of delivery designated by the purchaser. However, a transaction shall be considered as having occurred before July 1, 2004, to the extent that the agreement of the parties to the transaction was entered into before July 1, 2004, and payment for the property or services furnished in the transaction is made before July 1, 2004, notwithstanding the delivery of the property or services after June 30, 2004.

(d) IC 6-2.5-6-9, as amended by this act, applies only to deductions assigned after June 30, 2004.

(e) IC 6-3-1-3.5, IC 6-3-2-2.5, and IC 6-3-2-2.6, all as amended by this act, apply only to taxable years beginning after December 31, 2003.

(f) The following provisions apply to deductions for net operating losses that are claimed after December 31, 2003:

(1) Deductions for net operating losses that are incurred in taxable years beginning after December 31, 2003, and are carried back or carried forward and deducted in taxable years ending before January 1, 2004, must be calculated under IC 6-3-2-2.5 and IC 6-3-2-2.6, both as amended by this act.

(2) Deductions for net operating losses that were incurred in taxable years ending before January 1, 2004, and that are carried forward and deducted in taxable years ending after December 31, 2003, must be calculated under IC 6-3-2-2.5 and IC 6-3-2-2.6, both as amended by this act.

(3) Deductions for net operating losses that were incurred in taxable years ending before January 1, 2004, and are carried back or carried forward and deducted in taxable years ending before January 1, 2004, must be calculated under the versions of IC 6-3-2-2.5 and IC 6-3-2-2.6 that were in effect in the year the net operating loss was incurred.

(4) Any net operating loss carried forward and deducted in a taxable year beginning after December 31, 2003, shall be reduced by the amount of the net operating loss previously deducted in an earlier taxable year.

(g) IC 6-4.1-1-3, as amended by this act, applies only to an adopting parent who dies after June 30, 2004.

SECTION 63. [EFFECTIVE UPON PASSAGE] **(a) An individual who:**

(1) was employed by Muscatatuck State Developmental Center on November 1, 2002;

(2) retired under the state's retirement incentive program that was effective beginning November 1, 2002, and ending June 14, 2003;

(3) would meet the years of service requirements specified in IC 5-10-8-8(b)(3) and the years of participation requirement specified in IC 5-10-8-8(b)(4) if:

(A) one (1) year of additional service credit is added to the individual's total years of service for every five (5) years of creditable state service; and

(B) pro rated months of additional service credit are added to the individual's total years of service for any additional years of creditable state service;

(4) otherwise meets the requirements of IC 5-10-8-8(b); and

(5) applies for participation in the group health insurance program under IC 5-10-8-8 before December 31, 2005;

is eligible for participation in the group health insurance program available to retired employees under IC 5-10-8-8.

(b) This SECTION expires December 31, 2006.

SECTION 64. [EFFECTIVE JULY 1, 2004] **(a) As used in this SECTION, "committee" refers to the interim study committee on corporate taxation established under subsection (b).**

(b) There is established the interim study committee on corporate taxation. The committee shall study the use of passive investment corporations by companies doing business in Indiana.

(c) The committee shall operate under the policies governing study committees adopted by the legislative council.

(d) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

(e) This SECTION expires November 1, 2004.

SECTION 65. **An emergency is declared for this act**.

(Reference is to EHB 1365 as reprinted February 24, 2004.)

COCHRAN	BORST
ESPICH	SIMPSON
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORTS

Engrossed Senate Bill 19–1

The conference committee report was reread. Roll Call 268: yeas 92, nays 1. Report adopted.

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

Engrossed House Bill 1437–1

The conference committee report was reread. Roll Call 269: yeas 94, nays 0. Report adopted.

Engrossed House Bill 1203–1

The conference committee report was reread. Roll Call 270: yeas 94, nays 0. Report adopted.

CONFERENCE COMMITTEE REPORTS AND RULES SUSPENSIONS

Engrossed House Bill 1251–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1251–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that House Rule 162.2 be suspended so that the conference committee report for Engrossed House Bill 1251–1 may be laid over on the members' desks for 4 hours, so that the conference committee report for Engrossed House Bill 1251–1 may be eligible to be placed before the House for action.

PELATH

Motion prevailed.

The conference committee report was reread. Roll Call 271: yeas 95, nays 0. Report adopted.

Engrossed House Bill 1300–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1300–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that House Rule 162.2 be suspended so that the conference committee report for Engrossed House Bill 1300–1 may be laid over on the members' desks for 4 hours, so that the conference committee report for Engrossed House Bill 1300–1 may be eligible to be placed before the House for action.

PELATH

Motion prevailed.

The conference committee report was reread. Roll Call 272: yeas 94, nays 0. Report adopted.

Engrossed House Bill 1401–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members' desks for 2 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1401–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that House Rule 162.2 be suspended so that the conference committee report for Engrossed House Bill 1401–1 may be laid over on the members' desks for 2 hours, so that the conference committee report for Engrossed House Bill 1401–1 may be eligible to be placed before the House for action.

PELATH

Motion prevailed.

The conference committee report was reread. Representatives Ayres, Oxley, Robertson, Ruppel, Van Haaften, and Welch were excused from voting. Roll Call 273: yeas 63, nays 25. Report adopted.

Engrossed House Bill 1273–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1273–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that House Rule 162.2 be suspended so that the conference committee report for Engrossed House Bill 1273–1 may be laid over on the members' desks for 4 hours, so that the conference committee report for Engrossed House Bill 1273–1 may be eligible to be placed before the House for action.

PELATH

Motion prevailed.

The conference committee report was reread. Representative Murphy was excused from voting. Roll Call 274: yeas 92, nays 0. Report adopted.

Engrossed Senate Bill 278–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 278–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that House Rule 162.2 be suspended so that the conference committee report for Engrossed Senate Bill 278–1

may be laid over on the members' desks for 4 hours, so that the conference committee report for Engrossed Senate Bill 278–1 may be eligible to be placed before the House for action.

PELATH

Motion prevailed.

The conference committee report was reread. Roll Call 275: yeas 95, nays 0. Report adopted.

Engrossed House Bill 1434–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1434–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that House Rule 162.2 be suspended so that the conference committee report for Engrossed House Bill 1434–1 may be laid over on the members' desks for 4 hours, so that the conference committee report for Engrossed House Bill 1434–1 may be eligible to be placed before the House for action.

PELATH

Motion prevailed.

The conference committee report was reread. Roll Call 276: yeas 95, nays 0. Report adopted.

Engrossed Senate Bill 194–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 194–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that House Rule 162.2 be suspended so that the conference committee report for Engrossed Senate Bill 194–1 may be laid over on the members' desks for 4 hours, so that the conference committee report for Engrossed Senate Bill 194–1 may be eligible to be placed before the House for action.

PELATH

Motion prevailed.

The conference committee report was reread. Roll Call 277: yeas 91, nays 0. Report adopted.

Engrossed House Bill 1266–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1266–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that House Rule 162.2 be suspended so that the conference committee report for Engrossed House Bill 1266–1 may be laid over on the members' desks for 4 hours, so that the conference committee report for Engrossed House Bill 1266–1 may be eligible to be placed before the House for action.

PELATH

Motion prevailed.

The conference committee report was reread. Roll Call 278: yeas 89, nays 1. Report adopted.

Representative Denbo was excused.

Engrossed House Bill 1207–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1207–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that House Rule 162.2 be suspended so that the conference committee report for Engrossed House Bill 1207–1 may be laid over on the members' desks for 4 hours, so that the conference committee report for Engrossed House Bill 1207–1 may be eligible to be placed before the House for action.

PELATH

Motion prevailed.

The conference committee report was reread. Representative Saunders was excused from voting. Roll Call 279: yeas 77, nays 10. Report adopted.

A meeting of the Committee on Rules and Legislative Procedures was announced and Representatives Alderman, Denbo, Dickinson, Foley, Harris, Oxley, Pelath, Stilwell, Turner, and Whetstone were excused.

Representatives Austin and Mays were excused.

Engrossed House Bill 1264–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1264–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that House Rule 162.2 be suspended so that the conference committee report for Engrossed House Bill 1264–1 may be laid over on the members' desks for 4 hours, so that the conference committee report for Engrossed House Bill 1264–1 may be eligible to be placed before the House for action.

PELATH

Motion prevailed.

The conference committee report was reread. Roll Call 280: yeas 76, nays 0. Report adopted.

Representative Turner, who had been excused, was present.

Engrossed House Bill 1350–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1350–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that House Rule 162.2 be suspended so that the conference committee report for Engrossed House Bill 1350–1 may be laid over on the members' desks for 4 hours, so that the conference committee report for Engrossed House Bill 1350–1 may be eligible to be placed before the House for action.

PELATH

Motion prevailed.

The conference committee report was reread. Roll Call 281: yeas 78, nays 0. Report adopted.

Engrossed House Bill 1005–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1005–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that House Rule 162.2 be suspended so that the conference committee report for Engrossed House Bill 1005–1 may be laid over on the members' desks for 4 hours, so that the conference committee report for Engrossed House Bill 1005–1 may be eligible to be placed before the House for action.

PELATH

Motion prevailed.

The conference committee report was reread. Roll Call 282: yeas 79, nays 1. Report adopted.

Engrossed House Bill 1194–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1194–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that House Rule 162.2 be suspended so that the conference committee report for Engrossed House Bill 1194–1 may be laid over on the members' desks for 4 hours, so that the conference committee report for Engrossed House Bill 1194–1 may be eligible to be placed before the House for action.

PELATH

Motion prevailed.

The conference committee report was reread. Roll Call 283: yeas 82, nays 0. Report adopted.

The Committee on Rules and Legislative Procedures completed its meeting and Representatives Alderman, Austin, Denbo, Dickinson, Foley, Harris, Mays, Oxley, Stilwell, and Whetstone were present.

Engrossed House Bill 1017–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1017–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that House Rule 162.2 be suspended so that the conference committee report for Engrossed House Bill 1017–1 may be laid over on the members' desks for 4 hours, so that the conference committee report for Engrossed House Bill 1017–1 may be eligible to be placed before the House for action.

PELATH

Motion prevailed.

The conference committee report was reread. Representatives Porter and Robertson were excused from voting. Roll Call 284: yeas 78, nays 8. Report adopted.

Representative Pelath, Chair of the Committee on Rules and Legislative Procedures, was present.

Engrossed House Bill 1229–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1229–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that House Rule 162.2 be suspended so that the conference committee report for Engrossed House Bill 1229–1 may be laid over on the members' desks for 4 hours, so that the conference committee report for Engrossed House Bill 1229–1 may be eligible to be placed before the House for action.

PELATH

Motion prevailed.

The conference committee report was reread. Representatives Espich, Foley, and Whetstone were excused from voting. Roll Call 285: yeas 88, nays 1. Report adopted.

Engrossed House Bill 1019–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following

conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1019–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that House Rule 162.2 be suspended so that the conference committee report for Engrossed House Bill 1019–1 may be laid over on the members' desks for 4 hours, so that the conference committee report for Engrossed House Bill 1019–1 may be eligible to be placed before the House for action.

PELATH

Motion prevailed.

The conference committee report was reread. Roll Call 286: yeas 85, nays 8. Report adopted.

Engrossed House Bill 1050–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1050–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that House Rule 162.2 be suspended so that the conference committee report for Engrossed House Bill 1050–1 may be laid over on the members' desks for 4 hours, so that the conference committee report for Engrossed House Bill 1050–1 may be eligible to be placed before the House for action.

PELATH

Motion prevailed.

The conference committee report was reread. Roll Call 287: yeas 92, nays 1. Report adopted.

Engrossed House Bill 1320–2

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members' desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1320–2.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that House Rule 162.2 be suspended so that the conference committee report for Engrossed House Bill 1320–2 may be laid over on the members' desks for 4 hours, so that the conference committee report for Engrossed House Bill 1320–2 may be eligible to be placed before the House for action.

PELATH

Motion prevailed.

The conference committee report was reread. Representative Saunders was excused from voting. Roll Call 288: yeas 93, nays 0. Report adopted.

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 1285 because it conflicts with SEA 263-2004 without properly recognizing the existence of SEA 263-2004, has had Engrossed House Bill 1285 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1285 be corrected as follows:

Page 3, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 6. IC 33-38-6-23, AS ADDED BY SEA 263-2004, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 23. (a) The board of trustees of the public employees' retirement fund shall administer the fund, which may be commingled with the public employees' retirement fund for investment purposes.

(b) The board shall **do the following:**

(1) Determine eligibility for and make payments of benefits under IC 33-38-7 and IC 33-38-8.

(2) In accordance with the powers and duties granted it in IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3 through IC 5-10.3-5-6, administer the fund. ~~and~~

(3) Provide by rule for the implementation of this chapter and IC 33-38-7 and IC 33-38-8.

(c) A determination by the board may be appealed under the procedures in IC 4-21.5.

(d) The powers and duties of:

(1) the director and the actuary of the board;

(2) the treasurer of state;

(3) the attorney general; and

(4) the auditor of state;

with respect to the fund are those specified in IC 5-10.3-3 and IC 5-10.3-4.

(e) The board may hire additional personnel, including hearing officers, to assist it in the implementation of this chapter.

(f) Fund records of individual participants and participants' information are confidential, except for the name and years of service of a fund participant.

SECTION 7. IC 33-39-7-11, AS ADDED BY SEA 263-2004, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) The board shall administer the fund, which may be commingled with the public employees' retirement fund for investment purposes.

(b) The board shall do the following:

(1) Determine eligibility for and make payments of benefits under this chapter.

(2) In accordance with the powers and duties granted the board in IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3 through IC 5-10.3-5-6, administer the fund.

(3) Provide by rule for the implementation of this chapter.

(c) A determination by the board may be appealed under IC 4-21.5.

(d) The powers and duties of:

(1) the director and the actuary of the board;

(2) the treasurer of state;

(3) the attorney general; and

(4) the auditor of state;

with respect to the fund are those specified in IC 5-10.3-3 and IC 5-10.3-4.

(e) The board may hire additional personnel, including hearing officers, to assist in the implementation of this chapter.

(f) Fund records of individual participants and participants' information are confidential, except for the name and years of service of a fund participant.".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1285 as reprinted February 26, 2004.)

PELATH, Chair
WHETSTONE, R.M.M.
GOODIN, Author

Report adopted.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
ESB 72–1; filed March 4, 2004, at 5:24 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 72 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 3-5-2-10, AS AMENDED BY P.L.69-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. "Chute" means the area or pathway that extends fifty (50) feet in length, measured from the ~~position where the poll worker closest to the door or~~ entrance to the polls. ~~is stationed by the inspector.~~ If the property line of the polling place is less than fifty (50) feet from the door or entrance to the polling place, the chute is measured from the exterior door or entrance to the polling place to one-half (1/2) the distance to the property line of the polling place **nearest to the entrance to the polls.** Whenever there are two (2) or more doors or entrances to the polls, the inspector of the precinct shall designate one (1) door or entrance as the door for voters to enter for the purpose of voting.

SECTION 2. IC 3-5-2-23.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 23.2. (a) Except as provided in subsection (b), "expedited basis" refers to the processing of:**

(1) a voter registration application;

(2) a cancellation of a voter registration application;

(3) a transfer of a voter registration application; or

(4) another document that creates or amends the voter registration record of an individual;

not later than forty-eight (48) hours after the document is received by a county voter registration office or an agency required under IC 3-7 to transmit voter registration documents to a county voter registration office.

(b) If a voter registration application or other document listed in subsection (a) includes a partial Social Security number that must be submitted to the Commissioner of Social Security for verification under 42 U.S.C. 405(r), "expedited basis" refers to the processing of the application or document not later than forty-eight (48) hours after the bureau of motor vehicles commission receives verification from the Commissioner regarding the partial Social Security number.

SECTION 3. IC 3-5-2-48 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 48. "State office" refers to governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, superintendent of public instruction, attorney general, justice of the supreme court, judge of the court of appeals, **and** judge of the tax court. ~~and clerk of the supreme court.~~

SECTION 4. IC 3-5-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. All expenses for a municipal primary election or municipal election that is conducted by a county election board shall be allowed by the county executive and shall be paid out of the general fund of the county, without any appropriation being required. The county auditor shall certify the amount of that allowance to the fiscal officer of the municipality **not later than thirty (30) days after the municipal primary or municipal election.** The fiscal body of the municipality shall make the necessary appropriation to reimburse the county for the expense of the primary election or election **not later than December 31 of the year in which the municipal election is conducted.**

SECTION 5. IC 3-5-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. **(a) Except as provided in subsection (b),** during the period that begins ninety (90) days before a municipal primary election and continues until the day after the following municipal election, all expenses of the primary election and election that cannot be chargeable directly to any municipality shall be apportioned as follows:

(1) ~~One-fourth (1/4)~~ **Twenty-five percent (25%)** to the county.

(2) ~~Three-fourths (3/4)~~ **Seventy-five percent (75%)** to the municipalities in the county holding the municipal primary election and municipal election.

(b) The apportionment made under subsection (a) does not apply to a town that has entered into an agreement with the county under IC 3-10-7-4 to pay the county a fixed amount for the expenses described in subsection (a).

SECTION 6. IC 3-5-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. **(a) Except as provided in subsection (c),** whenever more than one (1) municipality in a county conducts a municipal primary election, ~~and municipal election,~~ the ~~three-fourths (3/4)~~ **seventy-five percent (75%)** of expenses that cannot be chargeable directly to any particular municipality under section 8 of this chapter shall be apportioned to each municipality in the same ratio that the number of voters who cast a ballot in the municipality at the municipal **primary** election bears to the total number of voters who cast a ballot in all of the municipalities in the county at that municipal **primary** election.

(b) Except as provided in subsection (c), whenever more than one (1) municipality in a county conducts a municipal election, the seventy-five percent (75%) of expenses that are not chargeable directly to any particular municipality under section 8 of this chapter must be apportioned to each municipality in the same ratio that the number of voters who cast a ballot in the municipality at the municipal election bears to the total number of voters who cast a ballot in all of the municipalities in the county that conducted a municipal election.

(c) The apportionment made under subsection (a) does not apply to a town that has entered into an agreement with the county under IC 3-10-7-4 to pay the county a fixed amount for the expenses described in subsection (a).

SECTION 7. IC 3-5-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. The county election board shall, on a form prescribed ~~by the state board of accounts,~~ **under IC 3-6-4.1-14,** itemize all the expenses of any election for which a municipality is required to reimburse the county.

SECTION 8. IC 3-5-7-7, AS ADDED BY P.L.202-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A registered voter of the election district a candidate seeks to represent may file a sworn statement with the ~~commission~~ **election division** or a county election board under IC 3-8-1-2 if a candidate uses on the ballot a designation not permitted by section 5 of this chapter.

(b) A complaint filed under this section must contain the following information:

(1) The legal name of the candidate who has used a designation not permitted by section 5 of this chapter.

(2) The designation the candidate has used that is not permitted under section 5 of this chapter.

(c) If the commission or county election board finds that the candidate used a designation not permitted by section 5 of this chapter, the candidate is considered to have withdrawn the candidate's candidacy.

SECTION 9. IC 3-6-6-7, AS AMENDED BY P.L.199-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) An otherwise qualified person is eligible to serve as a precinct election officer unless any of the following apply:

(1) The person is unable to read, write, and speak the English language.

(2) The person has any property bet or wagered on the result of the election.

(3) The person is a candidate to be voted for at the election **in the precinct,** except as an unopposed candidate for a precinct committeeman or state convention delegate.

(4) The person is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of a candidate or declared write-in candidate to be voted for at the election in that precinct. This subdivision disqualifies a person whose relationship to the candidate is the result of birth, marriage, or adoption. This subdivision does not disqualify a person from serving as a

precinct election officer if the candidate to whom the person is related is an unopposed candidate. **For purposes of this subdivision, an "unopposed candidate" includes an individual whose nomination to an office at a primary election is unopposed by any other candidate within the same political party.**

(5) The person did not attend training required by section 40 of this chapter.

(b) In addition to the requirements of subsection (a), a person is not eligible to serve as an inspector if the person is the chairman or treasurer of the committee of a candidate whose name appears on the ballot.

SECTION 10. IC 3-6-6-13, AS AMENDED BY P.L.209-2003, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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~~ **majority** 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 11. IC 3-6-6-23, AS AMENDED BY P.L.126-2002, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. The oath prescribed for a precinct election officer must be signed before a person authorized to administer oaths and contain the following information:

I do solemnly swear (or affirm) the following:

(1) I will support the Constitution of the United States and the Constitution of the State of Indiana.

(2) I will faithfully and impartially discharge the duties of inspector (or judge, poll clerk, assistant poll clerk, or sheriff) of this precinct under the law.

(3) I will not knowingly permit any person to vote who is not qualified and will not knowingly refuse the vote of any qualified voter or cause any delay to any person offering to vote other than is necessary to procure satisfactory information of the qualification of that person as a voter.

(4) I am now a bona fide resident of the county in which the precinct in which I am to act as a member of the election board is situated and, if required by law, am a qualified voter of that county.

(5) I will not disclose or communicate to any person how any voter has voted at this election or how any ballot has been folded or marked.

(6) I am able to read, write, and speak the English language.

(7) I have no property bet or wagered on the result of this election.

(8) I am not a candidate to be voted for at this election **in this precinct,** except as an unopposed candidate for a political party office.

(9) If I am serving as an inspector, I am not the chairman or treasurer of the committee of a candidate whose name appears on the ballot.

(10) I am not related to any person to be voted for at this election **in this precinct** as the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of that person, unless that person is an unopposed candidate.

(11) I was trained as required by IC 3-6-6-40.

SECTION 12. IC 3-6-6-38, AS ADDED BY P.L.126-2002, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 38. (a) As used in this section, "omitted precinct election officer" refers to a precinct election officer that a precinct is not required to have by a resolution adopted under this section.

(b) Notwithstanding other provisions of this title, a county election board may adopt a resolution to provide that specified precincts or all precincts of the county are not required to have any or all of the following precinct election officers:

(1) ~~Sheriff.~~ **Sheriffs.**

(2) Poll clerks.

(c) A resolution adopted under this section must be adopted by unanimous vote of the entire membership of the board.

(d) A resolution adopted under this section must state the following:

(1) The precincts to which the resolution applies.

(2) For each precinct identified in the resolution, which precinct election officers are omitted precinct election officers.

(3) For each precinct identified in the resolution, which precinct election officers will perform the duties required by this title of the omitted precinct election officers.

(e) Notwithstanding any other law, the precinct election officer specified in a resolution adopted under this section shall perform the duties of the omitted precinct election officers as stated in the resolution.

(f) A resolution adopted under this section expires December 31 after the resolution is adopted.

SECTION 13. IC 3-6-6-40, AS ADDED BY P.L.66-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 40. ~~(a) This section applies after December 31, 2003.~~

~~(b)~~ **(a)** The county election board shall conduct a training and educational meeting for precinct election officers.

~~(c)~~ **(b)** The board shall require inspectors ~~and judges~~ to attend the meeting and may require other precinct election officers to attend the meeting.

~~(d)~~ **(c)** The meeting required under this section must include information:

(1) relating to making polling places and voting systems accessible to elderly voters and disabled voters; and

(2) relating to the voting systems used in the county.

The meeting may include other information relating to the duties of precinct election officers as determined by the county election board.

~~(e)~~ **(d)** The meeting required by this section must be held not later than the day before election day.

(e) If an individual:

(1) is appointed as a precinct election officer after the training and educational meeting conducted under this section; or

(2) demonstrates to the county election board that the individual was unable to attend the meeting due to good cause;

the county election board may authorize the individual to serve as a precinct election officer if the county election board determines that there is insufficient time to conduct the training required by this section.

SECTION 14. IC 3-6-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) If:

(1) twenty-six percent (26%) or more of all candidates of a political party who are candidates for:

(A) nomination to elected offices at a county **primary election** (or municipal primary election **within the municipality in which the municipal primary is to be conducted),** not including candidates for delegates to the state convention or candidates for precinct committeemen; or

(B) precinct committeemen at an election for precinct committeemen, whose names are certified to the county election board as candidates to be voted for at the primary election for precinct committeemen; or

(2) any candidate or group of candidates for a school board office;

desire to have watchers at the polls in any precinct of the county or municipality, they shall sign a written statement indicating their desire to name watchers.

(b) If the candidates signing the statement are candidates for

nomination at a county primary election or for election as precinct committeemen or to a school board office, the written statement shall be filed with the circuit court clerk of the county where the candidates reside.

(c) If the candidates signing the statement are candidates for nomination at a municipal primary election, the written statement shall be filed with the circuit court clerk of the county that contains the greatest percentage of the population of the election district.

SECTION 15. IC 3-6-9-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13. A watcher appointed under this chapter is entitled to do the following:**

(1) Enter the polls at least thirty (30) minutes before the opening of the polls and remain there throughout election day until all tabulations have been completed.

(2) Inspect the paper ballot boxes, voting machines, ballot card voting system, or electronic voting system before votes have been cast.

(3) Inspect the work being done by any precinct election officer.

(4) Enter, leave, and reenter the polls at any time on election day.

(5) Witness the calling and recording of the votes, the reading of the totals from the voting machines, and any other proceedings of the precinct election officers in the performance of official duties.

(6) Receive a summary of the vote prepared under IC 3-12-2-15, IC 3-12-2.5-4, IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed by the precinct election board, providing:

(A) the names of all candidates of the political party whose primary election is being observed by the watcher and the number of votes cast for each candidate, if the watcher is appointed under section 1(a)(1) of this chapter; or

(B) the names of all candidates at a school board election and the number of votes cast for each candidate if the watcher is appointed under section 1(a)(2) of this chapter.

(7) Accompany the inspector and the judge in delivering the tabulation and the election returns to the county election board by the most direct route.

(8) Be present when the inspector takes a receipt for the tabulation and the election returns delivered to the county election board.

(9) Call upon the election sheriffs to make arrests.

SECTION 16. IC 3-6-10-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.5. A watcher appointed under this chapter is entitled to do the following:**

(1) Enter the polls at least thirty (30) minutes before the opening of the polls and remain there throughout election day until all tabulations have been completed.

(2) Inspect the paper ballot boxes, voting machines, ballot card voting system, or electronic voting system before votes have been cast.

(3) Inspect the work being done by any precinct election officer.

(4) Enter, leave, and reenter the polls at any time on election day.

(5) Witness the calling and recording of the votes, the reading of the totals from the voting machines, and any other proceedings of the precinct election officers in the performance of official duties.

(6) Receive a summary of the vote prepared under IC 3-12-2-15, IC 3-12-2.5-4, IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed by the precinct election board providing the names of all candidates and the number of votes cast for each candidate and the votes cast for or against a public question.

(7) Accompany the inspector and the judge in delivering the tabulation and the election returns to the county election board by the most direct route.

(8) Be present when the inspector takes a receipt for the tabulation and the election returns delivered to the county election board.

SECTION 17. IC 3-7-12-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. (a) The circuit court clerk or board of registration members shall, following the cancellation of voter registrations as provided by the voter list maintenance program under this article, file an affidavit under affirmation with the ~~county auditor.~~ **election division.**

(b) The affidavit must be on a form prescribed by the commission and must state that the clerk or board has:

(1) conducted the voter list maintenance program under this article; and

(2) canceled the registrations required under the voter list maintenance program.

SECTION 18. IC 3-7-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a) Except as provided in subsection (b),** the definitions in IC 9-13-2 apply to this chapter.

(b) A reference to the "commission" in this chapter is a reference to the Indiana election commission unless otherwise stated.

SECTION 19. IC 3-7-14-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. As provided in 42 U.S.C. 1973gg-3(c)(1), the **bureau of motor vehicles** commission shall include a voter registration application form as a part of the application for a driver's license prescribed under IC 9-24.

SECTION 20. IC 3-7-14-9, AS AMENDED BY HEA 1360-2004, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. **(a)** An employee of the **bureau of motor vehicles** commission who provides an individual with a driver's license or identification card application shall do the following:

(1) Inform each individual who applies for a driver's license or an identification card that the information the individual provides on the individual's application will be used to register the individual to vote unless:

(A) the individual is not eligible to vote;

(B) the individual declines to register to vote or fails to complete the voter registration part of the application; or

(C) the individual answers "no" to either question described by IC 3-7-22-5(3) or IC 3-7-22-5(4).

(2) Provide each individual who indicates a desire to register or transfer registration with assistance in filling out the voter registration application if requested to do so by the individual.

(3) Check the completed voter registration form for legibility and completeness.

(4) Deliver the completed registration form to the license branch manager (or the employee designated by the manager to be responsible for voter registration services) for transmittal to the appropriate circuit court clerk or board of registration.

(5) Inform the individual that the individual will receive a mailing from the county voter registration office of the county where the individual resides concerning the disposition of the voter registration application.

(6) Inform each individual who submits a change of address for a driver's license or identification card that the information serves as notice of a change of address for voter registration unless the applicant states in writing on the form that the change of address is not for voter registration purposes.

(b) The bureau of motor vehicles commission shall transmit a voter registration form completed after December 31, 2005, to the election division for transmittal to the appropriate county voter registration office in accordance with IC 3-7-26.3.

SECTION 21. IC 3-7-14-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. If an individual is registering to vote after the twenty-ninth day before the date that a primary, general, municipal, or special election is scheduled in the precinct where the voter resides, the employee of the **bureau of motor vehicles** commission who provides an individual with a driver's license or an identification card application shall do the following:

(1) Inform the individual that license branch registration will not permit the individual to vote in the next election.

(2) Inform the individual of other procedures the individual may follow to vote in the next election.

SECTION 22. IC 3-7-14-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. Whenever an applicant completes a voter registration application under section 4 of this chapter, the **bureau of motor vehicles** commission shall provide the applicant with a written acknowledgment that the applicant has completed a voter registration application at a license branch. The acknowledgment:

(1) may be:

(A) a detachable part; **or**

(B) after December 31, 2005, an electronic version;

of the registration form prescribed under section 4 of this chapter; and

(2) must set forth the name and residential address of the applicant and the date that the application was completed.

SECTION 23. IC 3-7-14-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) An applicant who completes a voter registration application under section 4 of this chapter is not required to submit the application to a ~~circuit court clerk or board of~~ **county voter** registration ~~member.~~ **office.**

(b) The **bureau of motor vehicles** commission shall forward the voter registration part of the application to a ~~circuit court clerk or board of~~ **county voter** registration **office** not later than five (5) days after the date of acceptance and as provided in IC 9-24-2.5 and 42 U.S.C. 1973gg-3(c)(2)(E). **This subsection expires January 1, 2006.**

(c) This subsection applies after December 31, 2005. The bureau of motor vehicles commission shall forward the voter registration part of the application to the election division for transmittal to the appropriate county voter registration office on an expedited basis in accordance with IC 3-7-26.3, IC 9-24-2.5 and 42 U.S.C. 1973gg-3(c)(2)(E).

SECTION 24. IC 3-7-14-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. Voter registration information received or maintained by the **bureau of motor vehicles** commission under this chapter is confidential and may be used only for voter registration purposes as provided in this article, 42 U.S.C. 1973gg-3(b), and 42 U.S.C. 1973gg-6(a)(6).

SECTION 25. IC 3-7-14-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. Except as provided in section 15 of this chapter, an application under section 4 of this chapter authorizes a ~~circuit court clerk or board of~~ **county voter** registration **office** to update the voter registration record of the applicant:

(1) under 42 U.S.C. 1973gg-3(a)(2) unless the applicant fails to sign the voter registration application; **or**

(2) after December 31, 2005, in a manner authorized under IC 3-7-26.3.

SECTION 26. IC 3-7-14-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. As provided in 42 U.S.C. 1973gg-3(d), a circuit court clerk or board of registration may update the address in the voter registration of an applicant, unless the applicant indicates on an application to obtain or renew a motor vehicle driver's license (or any other change of address form submitted to the clerk or board by the **bureau of motor vehicles** commission) that the change of address of the applicant is not for voter registration purposes.

SECTION 27. IC 3-7-26-2, AS AMENDED BY P.L.209-2003, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 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)~~ **(b)** The statewide voter registration file must comply with the standards and requirements described in 42 U.S.C. 15483.

SECTION 28. IC 3-7-26-8, AS AMENDED BY P.L.209-2003, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 January 1, 2004,~~ **After a county has the capability to transmit information in accordance with subsection (a),** 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 29. IC 3-7-26.3-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 22. The computerized list must contain at least the following information for each voter:**

(1) The voter's voting history for at least the previous ten (10) years, if available, including the political party ballot requested by the voter at any primary election during the period.

(2) The source of the voter's registration application.

(3) A listing of all previous addresses at which the voter was registered to vote during at least the previous ten (10) years, if available.

(4) Information concerning the documentation submitted by the voter to comply with the requirements of HAVA.

(5) Documentation of all changes to the registration made by the voter.

(6) Documentation concerning all notices sent to the voter by the county voter registration office.

SECTION 30. IC 3-7-26.3-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 23. The computerized list must include absentee ballot management features that do the following:**

(1) Manage absentee ballots based on the type, eligibility, and status of the absentee voter.

(2) Permit the printing of absentee labels by group or date, or by individual for use by a voter voting in person at the county election board office.

(3) Permit the documentation of the date on which each absentee ballot is issued and returned.

(4) Permit the printing of absentee ballot applications with voter registration information for the absentee ballot applicant.

SECTION 31. IC 3-7-26.3-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 24. The computerized list must permit a circuit court clerk to transmit reports or statements to the election division under IC 3-6-5, this article, or IC 3-12-5.**

SECTION 32. IC 3-7-26.3-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 25. The computerized list must include election and poll worker management features such as whether poll workers served only part of an election day.**

SECTION 33. IC 3-7-26.3-26 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 26. The computerized list must provide fully synchronized backup and recovery with a well defined disaster recovery plan.**

SECTION 34. IC 3-7-26.3-27 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 27. The computerized list must include signature digitizing features that have the ability to accept and maintain a scanned image of the voter's signature.**

SECTION 35. IC 3-7-26.3-28 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 28. The computerized list must include street file management features that do the following:**

(1) Include an integral street file with automatic assignment to election districts and jurisdictions based on residence address location.

(2) Permit changing street names throughout a county or

for specific areas within a county.

(3) Permit interfacing with geographic information systems.

(4) Permit comprehensive changes to reflect changes in legislative district or precinct boundary lines.

(5) Permit the accommodation of multiple place names within a single ZIP code area.

(6) Permit the tracking and management of data concerning polling place locations.

SECTION 36. IC 3-7-26.3-29 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 29. The computerized list must include voter registration management features that do the following:**

(1) Automatically assign voter identification numbers in accordance with this title.

(2) Calculate the number of registered voters by precinct or any election district.

(3) Permit expedited web based inquiries concerning polling place locations.

(4) Track and report all voter list maintenance transactions performed within the system.

(5) Permit tracking regarding the political party ballot requested by voters voting in a primary.

(6) Generate a variety of reports on paper, compact disc, or floppy disc format, such as walking lists, call lists, lists of voters by precinct, lists of voters by name, date of birth, or date of registration, and lists of voters by other household data.

(7) Identify voters who are currently less than eighteen (18) years of age.

(8) Permit electronic processing of voter registration information received as files from other state and federal agencies.

(9) Provide flexible query functions for management and statistical reports, including the ability of the secretary of state or a co-director of the election division to view individual voter registration records.

(10) Contain full audit controls and management reports to track and manage the work of county voter registration office employees, including the ability of the secretary of state or the co-directors of the election division to determine whether a county voter registration office is performing voter list maintenance functions in the manner required by IC 3-7.

SECTION 37. IC 3-7-26.3-30 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 30. The computerized list must include a help desk support feature, staffed by individuals who can provide assistance to county voter registration offices regarding the proper operation of the system.**

SECTION 38. IC 3-7-26.3-31 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 31. The computerized list must include features permitting the secretary of state or a co-director of the election division to include other features determined by the secretary of state and the co-directors of the election division.**

SECTION 39. IC 3-7-26.3-32 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 32. (a) This section applies to a county with a county voter registration office described in IC 3-5-2-16.2(1) or IC 3-5-2-16.2(2).**

(b) The computerized list must permit a county election board to view data concerning voters of the county in order to do the following:

(1) Administer absentee balloting.

(2) Determine whether an individual who wishes to file as a candidate is a voter of the county.

SECTION 40. IC 3-7-27-20, AS AMENDED BY P.L.209-2003, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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) **in the form of summary information on a poll list documented in accordance with IC 3-11-8-25** 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 **or an optically scanned image of the document.** 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.

(e) The county voter registration office is not required to prepare a duplicate paper copy of a registration properly entered into the computerized system.

(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 41. IC 3-7-27-20.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 20.2. (a) This section applies after December 31, 2005.**

(b) The county voter registration office shall prepare an entry in the computerized system indicating:

(1) whether the applicant was required to provide documentation under IC 3-7-33-4.5; and

(2) if so, 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 by:

(A) a precinct election board after the person voted in person at the polling place;

(B) the county election board after the person applied to cast an absentee ballot; or

(C) 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.

SECTION 42. IC 3-7-30-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As provided in 42 U.S.C. 1973gg-3(c), the fact that an applicant declined to register at a license branch **or** at a voter registration agency ~~or by mail~~ is confidential.

SECTION 43. IC 3-7-32-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. A registration application must be signed:

(1) in indelible ink or indelible pencil; **or**

(2) after December 31, 2005, with an electronic signature in a manner authorized under IC 3-7-26.3 if submitted to a license branch under IC 3-7-14.

SECTION 44. IC 3-7-32-4, AS AMENDED BY P.L.126-2002,

SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. A voter may not submit a registration application by electronic transmission except as provided in IC 3-11-4 **or, after December 31, 2005, IC 3-7-26.3.**

SECTION 45. IC 3-7-33-4, AS AMENDED BY P.L.209-2003, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) This section applies to a voter registration application submitted on a registration by mail form under 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 county voter registration office not later than ~~twenty-four (24) days~~ **the Monday following the close of the registration period** before the election.

SECTION 46. IC 3-7-33-4.5, AS ADDED BY P.L.209-2003, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. ~~(a) This section applies after December 31, 2003.~~

~~(b)~~ **(a)** Except as provided in subsection ~~(c),~~ **(b),** 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)~~ **(b)** 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 **residence** address of the voter **stated on the voter registration application.**

(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)~~ **(c)** 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)~~ **(d)** 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)~~ **(e)** 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)~~ **(f)** 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)~~ **(g)**The county voter registration office shall remove the notation described in subsection ~~(g)~~ **(f)** after the voter votes in an election for a federal office.

SECTION 47. IC 3-7-36-14, AS ADDED BY P.L.126-2002, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) This section applies to a person described in subsection (b) who applies to register to vote during the period:

(1) beginning on the date that the certified list of voters is prepared under IC 3-7-29-1; and

(2) ending at noon election day.

(b) An absent uniformed services voter who is absent from Indiana during the registration period described in IC 3-7-13-10 and who otherwise would be entitled to register to vote under Indiana law may, upon returning to Indiana during the period described in subsection (a) following discharge from service or reassignment, register to vote by doing the following:

(1) Showing either of the following to the ~~circuit court clerk:~~ **county voter registration office:**

(A) A discharge from service, dated not earlier than the beginning of the registration period that ended on the date described in IC 3-7-13-11, of:

(i) the voter;

(ii) the voter's spouse; or

(iii) the individual of whom the voter is a dependent.

(B) A copy of the government movement orders, with a reporting date not earlier than the beginning of the registration period that ended on the date described in IC 3-7-13-11, of:

(i) the voter;

(ii) the voter's spouse; or

(iii) the individual of whom the voter is a dependent.

(2) Completing a registration affidavit.

(c) A voter who registers under this section may vote at the upcoming election only by absentee ballot at the office of the circuit court clerk at the time the voter registers under this section or at any time after the voter registers under this section and before noon on election day. A voter who wants to vote under this subsection must do both of the following:

(1) Complete an application for an absentee ballot.

(2) Sign an affidavit that the voter has not voted at any other precinct in the election.

The voter may vote at subsequent elections as otherwise provided in this title.

(d) If the voter votes by absentee ballot under this section, the circuit court clerk shall do the following:

(1) Certify in writing that the voter registered under this section.

(2) Attach the certification to the voter's absentee ballot envelope.

(e) If the county has a board of registration, **the board of registration shall promptly deliver the voter's registration affidavit to** the circuit court clerk ~~shall promptly mail or deliver the voter's registration affidavit~~ to ~~the board of registration.~~ **permit the voter to vote under subsection (c).**

(f) If the voter chooses not to vote under subsection (c), the ~~clerk or board~~ **county voter registration office** shall register the voter on the first day of the next registration period.

SECTION 48. IC 3-7-38.1-7, AS AMENDED BY P.L.38-1999, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A county voter registration office shall cancel the registration of a voter who is

described by both of the following:

(1) The voter is described in section 4(a)(5)(C) of this chapter.

(2) The voter has not voted (or appeared to vote or to correct the registration record stating the voter's address) in an election during the period:

(A) beginning on the date of the notice sent under section 4(a)(3) of this chapter; and

(B) ending on the day after the date of the second general election that occurs after the date of the notice sent under section 4(a)(3) of this chapter.

(b) **If an individual appears to vote after the individual's registration is placed on inactive status under section 5 of this chapter, the individual must affirm under IC 3-10-1 or IC 3-11-8 before the individual is permitted to vote that the individual currently resides at the address shown on the individual's registration.**

(c) At the expiration of the period ending thirty (30) days after the second general election described in subsection (a)(2)(B), the county voter registration office shall cancel the registration of a voter described by this section.

SECTION 49. IC 3-7-38.2-2, AS AMENDED BY P.L.209-2003, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a)** 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.

(b) A county voter registration office may conduct a voter list maintenance program that complies with subsection (a). In conducting a voter list maintenance program, the county voter registration office shall mail a notice described in subsection (d) to each registered voter at the residence address:

(1) listed in the voter's registration record; and

(2) determined by the county voter registration office not to be the voter's current residence address.

(c) A county voter registration office may use information only from the following sources to make the determination under subsection (b)(2):

(1) The United States Postal Service National Change of Address Service.

(2) A court regarding jury duty notices.

(3) The return of a mailing sent by the county voter registration office to all voters in the county.

(4) The bureau of motor vehicles concerning the surrender of a voter's Indiana license for the operation of a motor vehicle to another jurisdiction.

(d) The notice described in subsection (b) must:

(1) be sent by first class United States mail, postage prepaid, by a method that requires the notice to be forwarded to the voter; and

(2) include a postage prepaid return card that:

(A) is addressed to the county voter registration office;

(B) states a date by which the card must be returned or the voter's registration will become inactive until the information is provided to the county voter registration office; and

(C) permits the voter to provide the voter's current residence address.

(e) If a voter returns the card described in subsection (d)(2) and provides a current residence address that establishes that the voter resides:

(1) in the county, the county voter registration office shall update the voter's registration record; or

(2) outside the county, the county voter registration office shall cancel the voter's registration.

(f) If a voter does not return the card described in subsection (d)(2) by the date specified in subsection (d)(2)(B), the county voter registration office shall indicate in the voter's registration record that the voter's registration is inactive.

(g) A voter's registration that becomes inactive under subsection (f) remains in inactive status from the date described in subsection (d)(2)(B) until the earlier of the following:

(1) The date the county voter registration office updates or cancels the voter's registration under subsection (e) after the voter provides a current residence address.

(2) The day after the second general election in which the voter has not voted or appeared to vote.

(h) After the date described in subsection (g)(2), the county voter registration office shall remove the voter's registration from the voter registration records.

SECTION 50. IC 3-7-38.2-13, AS AMENDED BY P.L.38-1999, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. After the county voter registration office has determined under this chapter that a voter's residence may have changed, the election division shall send a notice to the voter that sets forth substantially the following statements as provided in 42 U.S.C. 1973gg-6(d)(2):

(1) If the voter did not change the voter's residence or changed the residence but remained in the same county where the voter was listed on the voter registration record, the voter must return the card enclosed with the notice in person to the county voter registration office not later than twenty-nine (29) days before the election or by regular United States mail:

(A) with a postmark not later than twenty-nine (29) days before the election; or

(B) if a postmark is missing or illegible, to the county voter registration office not later than twenty-one (21) days before the election.

(2) If the card is not returned under subdivision (1), the voter ~~may be required to~~ **must** affirm or confirm the voter's address before the voter is permitted to vote in an election during the period:

(A) beginning on the date of the notice; and

(B) ending on the day after the date of the second general election scheduled to occur after the date of the notice.

(3) If the voter does not vote in an election described in subdivision (2), the voter's name will be removed from the voter registration list.

(4) If the voter changed residence to a place outside the county in which the voter is included on the voter registration list, information concerning how the voter can continue to be eligible to vote in the county where the voter currently resides.

SECTION 51. IC 3-7-48-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. **(a)** A voter shall be permitted to vote in a precinct upon written affirmation of the voter's residence in the precinct if:

(1) the voter produces a registration receipt indicating that the voter completed a registration form at a license branch or voter registration agency under this article on a date within the registration period; ~~and~~

(2) the county voter registration office advises the precinct election board that the office:

(A) approved the application; or

(B) has no record of either approving or rejecting the application; **and**

(3) the voter completes a registration application form and provides the completed form to the precinct election board before voting.

(b) A county election board shall provide each precinct election board with a sufficient number of the registration forms for the purposes described in subsection (a). The precinct election board shall attach the completed registration forms to the poll list for processing by the county voter registration office under IC 3-10-1-31.

SECTION 52. IC 3-8-1-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 33. (a) A candidate for an office listed in subsection (b) must file a statement of economic interests.

(b) Whenever a candidate for any of the following offices is also required to file a declaration of candidacy or is nominated by petition, the candidate shall file a statement of economic interests before filing

the declaration of candidacy or declaration of intent to be a write-in candidate, before the petition of nomination is filed, before the certificate of nomination is filed, or before being appointed to fill a candidate vacancy under IC 3-13-1 or IC 3-13-2:

(1) Governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, and state superintendent of public instruction, in accordance with IC 4-2-6-8.

(2) Senator and representative in the general assembly, in accordance with IC 2-2.1-3-2.

(3) Justice of the supreme court, ~~clerk of the supreme court,~~ judge of the court of appeals, judge of the tax court, judge of a circuit court, judge of a superior court, judge of a county court, judge of a probate court, and prosecuting attorney, in accordance with ~~IC 33-2.1-8-6~~ **IC 33-23-11-14** and ~~IC 33-2.1-8-7~~ **IC 33-23-11-15.**

SECTION 53. IC 3-8-2-2.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.7. (a) A candidate may withdraw a declaration of intent to be a write-in candidate not later than noon ~~of the final date to file a declaration of intent to be a write-in candidate under section 4 of this chapter.~~ **July 15 before a general or municipal election.**

(b) This subsection applies to a candidate who filed a declaration of intent to be a write-in candidate with the election division. The election division shall issue a corrected certification of write-in candidates under IC 3-8-7-30 as soon as practicable after a declaration is withdrawn under this section.

SECTION 54. IC 3-8-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A declaration of candidacy for a primary election must be filed no later than noon seventy-four (74) days and no earlier than one hundred four (104) days before the primary election. The declaration must be subscribed and sworn to before a person authorized to administer oaths.

(b) A declaration of intent to be a write-in candidate must be filed not later than noon ~~five (5) days before the final date for the delivery of absentee ballots under IC 3-11-4-15 and not earlier than ninety (90) days before a general election.~~ **on the date specified by IC 3-13-1-15(c) for a major political party to file a certificate of candidate selection.** The declaration must be subscribed and sworn to before a person authorized to administer oaths.

(c) During a year in which a federal decennial census, federal special census, special tabulation, or corrected population count becomes effective under IC 1-1-3.5, a declaration of:

(1) candidacy may be filed for an office that will appear on the primary election ballot; or

(2) intent to be a write-in candidate for an office that will appear on the general, municipal, or school board election ballot;

that year as a result of the new tabulation of population or corrected population count.

SECTION 55. IC 3-8-2-14, AS AMENDED BY P.L.58-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) All questions concerning the validity of a declaration filed with the secretary of state shall be referred to and determined by the commission in accordance with section 18 of this chapter. A statement questioning the validity of a declaration must be filed with the election division under IC 3-8-1-2(c) not later than noon sixty-seven (67) days before the date of the primary election.

(b) All questions concerning the validity of a declaration of candidacy filed with a circuit court clerk shall be referred to and determined by the county election board not later than noon fifty-four (54) days before the date of the primary election. A statement questioning the validity of a declaration must be filed with the county election board under IC 3-8-1-2(c) not later than noon sixty-seven (67) days before the date of the primary election.

(c) A question concerning the validity of a declaration of intent to be a write-in candidate shall be determined by the commission or the county election board not later than noon ~~seven (7) days~~ **sixty-seven (67) days** before election day. A statement questioning the validity of a declaration of intent to be a write-in candidate must be filed with the election division or county election board under IC 3-8-1-2(c) not later than noon ~~fourteen (14)~~ **seventy-four (74)** days before election day.

SECTION 56. IC 3-8-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) A political party shall conduct a state convention to nominate the candidates of the political party for the following offices to be voted on at the next general election:

(1) Lieutenant governor.

(2) Secretary of state.

(3) Auditor of state.

(4) Treasurer of state.

(5) Attorney general.

(6) Superintendent of public instruction.

~~(7) Clerk of the supreme court.~~

(b) The convention shall also:

(1) nominate candidates for presidential electors and alternate electors; and

(2) elect the delegates and alternate delegates to the national convention of the political party.

SECTION 57. IC 3-8-5-2, AS AMENDED BY P.L.167-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) A candidate for a town office may be nominated using any of the following methods:

(1) By convention conducted under this chapter.

(2) By a primary election.

(3) By petition filed under IC 3-8-6.

(4) If a town convention or a primary election is not required under section 10 of this chapter for the political party of which the candidate is a member, by the candidate's declaration of candidacy.

(b) Unless a town legislative body adopts an ordinance under subsection (c), a town shall use the convention method described in this chapter to nominate candidates for town offices.

(c) The town legislative body of a town covered by this chapter may adopt an ordinance to specify any other method described in subsection (a) to nominate candidates for town offices.

(d) The town legislative body must adopt an ordinance under subsection (c) not later than January 1 of the year in which a municipal election is held. The town clerk-treasurer shall send a copy of the ordinance to the circuit court clerk of the county that contains the greatest percentage of the town's population.

(e) If a town **described by section 1 of this chapter** adopts an ordinance under subsection (c) to nominate candidates by a primary election, the following apply:

(1) The county election board of the county that contains the greatest percentage of the town's population shall conduct the primary election for the town.

(2) All statutes governing primary elections for towns apply.

(3) The town may not change the method of nominating candidates for town offices more than one (1) time in any twelve (12) year period.

SECTION 58. IC 3-8-5-10.5, AS AMENDED BY P.L.167-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10.5. (a) A person who desires to be nominated for a town office by a major political party must file a declaration of candidacy with the circuit court clerk of the county containing the greatest percentage of population of the town.

(b) A declaration of candidacy must be filed:

(1) not earlier than January 1; and

(2) not later than:

(A) noon August 1 before a municipal election if the town nominates its candidates by convention; and

(B) the date that a declaration of candidacy must be filed under IC 3-8-2-4 if the town nominates its candidates by a primary election.

(c) The declaration must be subscribed and sworn to (or affirmed) before a notary public or other person authorized to administer oaths.

(d) The declaration of each candidate required by this section must certify the following information:

(1) The candidate's name, printed or typewritten as:

(A) the candidate wants the candidate's name to appear on the ballot; and

(B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.

(2) That the candidate is a registered voter and the location of the candidate's precinct and township (or the ward and town), county, and state.

(3) The candidate's complete residence address and the candidate's mailing address if the mailing address is different from the residence address.

(4) The candidate's party affiliation and the office to which the candidate seeks nomination, including the district designation if the candidate is seeking a town legislative body seat.

(5) That the candidate complies with all requirements under the laws of Indiana to be a candidate for the above named office, including any applicable residency requirements, and is not ineligible to be a candidate due to a criminal conviction that would prohibit the candidate from serving in the office.

(6) The candidate's signature.

(e) **This subsection does not apply to a town whose municipal election is to be conducted by a county.** Immediately after the deadline for filing, the circuit court clerk shall do all of the following:

(1) Certify to the town clerk-treasurer and release to the public a list of the candidates of each political party for each office. The list shall indicate any candidates of a political party nominated for an office under this chapter because of the failure of any other candidates of that political party to file a declaration of candidacy for that office.

(2) Post a copy of the list in a prominent place in the circuit court clerk's office.

(3) File a copy of each declaration of candidacy with the town clerk-treasurer.

(f) A person who files a declaration of candidacy for an elected office for which a per diem or salary is provided for by law is disqualified from filing a declaration of candidacy for another office for which a per diem or salary is provided for by law until the original declaration is withdrawn.

(g) A person who files a declaration of candidacy for an elected office may not file a declaration of candidacy for that office in the same year as a member of a different political party until the original declaration is withdrawn.

(h) A person who files a declaration of candidacy under this section may file a written notice withdrawing the person's declaration of candidacy in the same manner as the original declaration was filed, if the notice of withdrawal is filed not later than:

(1) noon August 1 before the municipal election if the town nominates its candidates by convention; and

(2) the date that a declaration of candidacy may be withdrawn under IC 3-8-2-20 if the town nominates its candidates in a primary election.

(i) A declaration of candidacy must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the declaration of candidacy. If there is a difference between the name on the candidate's declaration of candidacy and the name on the candidate's voter registration record, the officer with whom the declaration of candidacy is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's declaration of candidacy.

SECTION 59. IC 3-8-5-13, AS AMENDED BY P.L.202-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) The chairman and secretary of a town convention shall execute a certificate of nomination in writing, setting out the following:

(1) The name of each nominee as:

(A) the nominee wants the nominee's name to appear on the ballot; and

(B) the nominee's name is permitted to appear on the ballot under IC 3-5-7.

(2) The residence address of each nominee.

(3) The office for which each nominee was nominated.

(4) That each nominee is legally qualified to hold office.

~~(5) The political party device or emblem by which the ticket will be designated on the ballot.~~

(b) Both the chairman and secretary shall acknowledge the certificate before an officer authorized to take acknowledgment of deeds.

(c) The certificate must be filed with the circuit court clerk of the county having the greatest percentage of the population of the town.

(d) The certificate must be filed with the circuit court clerk no later than noon August 28 before the municipal election.

(e) The circuit court clerk shall file a copy of each certificate with the town clerk-treasurer no later than noon September 4.

SECTION 60. IC 3-8-5-14.7, AS AMENDED BY P.L.144-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14.7. (a) All questions regarding the validity of:

(1) a declaration of candidacy;

(2) a petition of nomination; **or**

(3) a certificate of nomination of a candidate by a town convention; ~~or a declaration of intent to be a write-in candidate for election to a town office~~

subject to this chapter shall be **filed under IC 3-8-1-2 not later than noon seven (7) days after the final date for filing a certificate under section 13(d) of this chapter. The question shall be** referred to and determined by the town election board (or by the appropriate county election board if a county election board is conducting the election for the town).

(b) The election board shall rule on the validity of any document described in subsection (a) not later than noon ~~September 11~~ **seven (7) days** following the **deadline for** filing of the document **required by subsection (a).**

(c) A question regarding the validity of a declaration to be a write-in candidate for election to a town office must be filed under IC 3-8-1-2 not later than the date and time specified by IC 3-8-2-14(c), and shall be determined by the election board not later than the date and time specified by IC 3-8-2-14(c).

SECTION 61. IC 3-8-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. A town clerk-treasurer shall preserve in the clerk-treasurer's office:

(1) all certificates of nomination and declarations of candidacy filed with the town clerk-treasurer under this chapter; and

(2) all petitions of nomination filed under IC 3-8-6-10;

for the period required under IC 3-10-1-31 **or IC 3-10-1-31.1** after the municipal election for which the nominations were made.

SECTION 62. IC 3-8-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Each candidate nominated by petition under section 2 of this chapter must be seeking an office that serves the entire state or a congressional or legislative district, or the same political subdivision.

(b) **For purposes of subsection (a), candidates seeking a fiscal or legislative body seat elected only by the voters of a district within a county or municipality and candidates seeking an office to be voted on by all the voters of the county or municipality are considered to be seeking offices that serve the same political subdivision.**

(c) An independent candidate may not include the name of any other candidate on the petition **or request to be placed on the ballot as associated with any other candidate,** except for the other candidate included on ~~a~~ **an independent** ticket for President and Vice President of the United States or governor and lieutenant governor.

SECTION 63. IC 3-8-6-5, AS AMENDED BY P.L.202-1999, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A petition of nomination must state all of the following:

(1) The name of each candidate as:

(A) the candidate wants the candidate's name to appear on the ballot; and

(B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.

(2) The address of each candidate, including the mailing address, if different from the residence address of the candidate.

(3) The office that each candidate seeks.

(4) The information required under IC 3-10-4-5, if the petition nominates candidates for presidential electors.

(5) That the petitioners desire and are registered and qualified to vote for each candidate.

(6) Whether the candidate is affiliated with the same

political party as any other candidate or group of candidates that has filed or will be filing a petition of nomination with the county voter registration office under section 10 of this chapter. This subdivision:

(A) applies after December 31, 2004; and

(B) does not apply to an independent candidate.

(b) A petition of nomination ~~may~~ **must:**

(1) designate a brief name of the political party that the candidates represent; ~~or~~

(2) indicate that the candidate is an independent candidate; **or** ~~together with a simple figure or device by which its lists of candidates may be designated on the ballot.~~

(3) indicate that the candidates are an independent ticket.

(c) If a political party has previously filed a device with the election division under IC 3-8-7-11, the petition may incorporate that device by reference in the petition. If a political party has not previously filed a device under IC 3-8-7-11, or the petition is for an independent ticket, the petition of nomination may include a device for designating the party or ticket on the ballot.

SECTION 64. IC 3-8-6-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.5. (a) This section applies to a petition of nomination which states that a candidate is affiliated with a political party.

(b) If a candidate claims affiliation with a political party:

(1) described by IC 3-8-4-1;

(2) of a candidate who has previously filed a petition of nomination under ~~IC 3-8-6;~~ **this chapter;** or

(3) whose name would result in voter confusion due to its similarity with the name of a political party described in subdivision (1) or (2);

a registered voter of the election district may question the validity of the filing in accordance with IC 3-8-1-2.

(c) If the voter affirms under subsection (b) that:

(1) the candidate is not the nominee of the political party described in subsection(b)(1);

(2) the candidate is not affiliated with the political party described in subsection(b)(2); or

(3) the name of the political party set forth in the petition would cause voter confusion under subsection (b)(3);

the commission or county election board shall determine the validity of the questioned filing under section 14 of this chapter.

~~(c)~~ **(d)** Following the filing of a question under subsection ~~(b)~~ **(b)(3)** and not later than the deadline for resolution of a question concerning a petition under section 14 of this chapter, all candidates named in the petition may file a joint written amendment to the petition to alter the name of the political party or to indicate that the candidates are independent.

~~(d)~~ **(e)** If:

(1) the commission or county election board determines that the party affiliation stated on the petition is described under subsection (b) **and that the affirmation of the voter under subsection (c) is correct;** and

(2) **in the case of a determination under subsection (c)(3),** the candidates do not file an amendment under subsection ~~(c);~~ **(d);**

the commission or board shall deny the filing.

SECTION 65. IC 3-8-6-17, AS AMENDED BY P.L.202-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) If:

(1) a petition of nomination contains the name of at least one (1) candidate who seeks to be placed on the ballot as the candidate of a political party described by section 1 of this chapter; and

(2) a candidate listed on the petition ceases to be a candidate after the petition is circulated for signature or filed;

the candidate may be replaced on the petition in accordance with this section.

(b) This subsection applies to a candidate described in subsection (a) who sought a federal, state, or legislative office **or a local office described by IC 3-8-2-5.** The state chairman of the political party may file a written statement with the election division stating the name of the substitute candidate. The statement must:

(1) be on a form prescribed by the commission;

(2) state the following:

(A) the name of the individual who ceased to be a candidate;

(B) the date and reason the individual ceased to be a candidate; and

(C) the name of the individual who will replace the candidate as:

(i) the individual wants the individual's name to appear on the ballot; and

(ii) the individual's name is permitted to appear on the ballot under IC 3-5-7; and

(3) be accompanied by the following:

(A) The replacement candidate's consent to be nominated by the petition and, if other candidates were listed on the petition, the signed consent of those candidates to be the replacement.

(B) The former candidate's statement of withdrawal in a form substantially similar to the form prescribed under IC 3-8-7-28 if the individual withdrew as a candidate.

A replacement candidate's consent to the nomination must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the consent to the nomination. If there is a difference between the name on the candidate's consent to the nomination and the name on the candidate's voter registration record, the officer with whom the consent to the nomination is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's consent to the nomination.

(c) This subsection applies to a candidate described in subsection (a) who sought a local office **other than a local office described by IC 3-8-2-5.** The county, city, or town chairman of the political party may file a written statement that conforms with subsection (b) with the election board conducting the election for the local office.

(d) The statement required under subsection (b) or (c) must be filed not later than the final date and time for the certification of presidential and vice presidential nominees under IC 3-10-4-5.

(e) If a petition of nomination is circulated or filed by an independent candidate and that individual ceases to be a candidate, another candidate may not be substituted on the petition of nomination.

SECTION 66. IC 3-8-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except as provided in subsection (f), if a political party has filed a statement with the election division (or any of its predecessors) that the device selected by the political party be used to designate the candidates of the political party on the ballot for all elections throughout the state, the device must be used until:

(1) the device is changed in accordance with party rules; and

(2) a statement concerning the use of the new device is filed with the election division.

(b) Except as provided in subsection (c), the device may be any appropriate symbol.

(c) A political party or an independent candidate may not use as a device:

(1) a symbol that has previously been filed by a political party or candidate with the election division (or any of its predecessors);

(2) the coat of arms or seal of the state or of the United States;

(3) the national or state flag; or

(4) any other emblem common to the people.

(d) Not later than noon, August 20, before each election:

(1) the state chairman of each political party whose candidates are to be certified under this section; or

(2) an individual filing a petition of nomination for candidates to be certified under this section;

shall file with the election division a camera-ready copy of the device under which the candidates of the political party or the petitioner are to be listed so that ballots may be prepared using the best possible reproduction of the device.

(e) This subsection applies to a candidate or political party whose name or device is to be printed only on ballots prepared by a county election board. Not later than noon, August 20, the chairman of the political party or the petitioner of nomination shall file a camera-ready copy of the device under which the candidates of the

political party or the petitioner are to be listed with the county election board of each county in which the name of the candidate or party will be placed on the ballot. **The county election board shall provide the camera-ready copy of the device to the town election board of a town located wholly or partially within the county upon request by the town election board.**

(f) If a copy of the device is not filed in accordance with subsection ~~(c) or~~ (d) **or (e),** or unless a device is designated in accordance with section 26 or 27 of this chapter, the election division, ~~or~~ county election board, **or town election board** is not required to use any device to designate the list of candidates.

SECTION 67. IC 3-8-7-16, AS AMENDED BY SEA 263-2004, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16. (a) This section does not apply to the certification of nominees under IC 3-10-4-5.

(b) The election division shall certify the following to each county election board not later than noon ~~August 20~~ **seventy-four (74) days** before ~~an~~ **a general** election:

(1) The name and place of residence of each person nominated for election to:

(A) an office for which the electorate of the whole state may vote;

(B) the United States House of Representatives;

(C) a legislative office; or

(D) a local office for which a declaration of candidacy must be filed with the election division under IC 3-8-2.

(2) The name of each:

(A) justice of the supreme court;

(B) judge of the court of appeals; and

(C) judge of the tax court;

who is subject to a retention vote by the electorate and who has filed a statement under IC 33-24-2 or IC 33-25-2 indicating that the justice or judge wishes to have the question of the justice's or judge's retention placed on the ballot.

(c) Subject to compliance with section 11 of this chapter, the election division shall designate the device under which the list of candidates of each political party will be printed and the order in which the political party ticket will be arranged under IC 3-10-4-2 and IC 3-11-2-6.

SECTION 68. IC 3-8-7-24, AS AMENDED BY P.L.38-1999, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. The election division and each circuit court clerk shall preserve all certificates and petitions of nomination filed under this article for the period required under IC 3-10-1-31 **or IC 3-10-1-31.1.**

SECTION 69. IC 3-8-7-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) Except as provided in subsections (b) and (c), if a nominee certified under this chapter, **IC 3-8-5, IC 3-8-6, or IC 3-10-1** desires to withdraw ~~from the ticket,~~ **as the nominee,** the nominee must file a notice of withdrawal in writing with the public official with whom the certificate of nomination was filed by noon:

(1) July 15 before a general or municipal election; ~~or~~

(2) **August 1 before a municipal election in a town subject to IC 3-8-5-10;**

(3) on the date specified for town convention nominees under IC 3-8-5-14.5;

(4) on the date specified for declared write-in candidates under IC 3-8-2-2.7; or

(5) forty-five (45) days before a special election.

(b) A candidate who is disqualified from being a candidate under IC 3-8-1-5 must file a notice of withdrawal immediately upon becoming disqualified. The filing requirements of subsection (a) do not apply to a notice of withdrawal filed under this subsection.

(c) A candidate who has moved from the election district the candidate sought to represent must file a notice of withdrawal immediately after changing the candidate's residence. The filing requirements of subsection (a) do not apply to a notice of withdrawal filed under this subsection.

SECTION 70. IC 3-8-7-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. (a) Not later than noon ~~of the day before the final date for the delivery of absentee ballots under IC 3-11-4-15,~~ **August 1,** the election division shall certify to each county election board:

(1) the name of each individual who filed a declaration of intent to be a write-in candidate with the election division; and

(2) any political party that the individual is affiliated with, or whether the individual is an independent candidate.

(b) This subsection applies to a county that does not use a central location to tally ballot card votes. The circuit court clerk shall provide a copy of the certification under this section to the inspector of each precinct, with instructions concerning the counting of write-in votes for declared write-in candidates.

SECTION 71. IC 3-9-4-14, AS AMENDED BY P.L.176-1999, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The election division and each county election board shall do all of the following:

(1) Ascertain whether candidates, committees, or other persons have:

(A) failed to file statements of organization or reports; or

(B) filed defective statements of organization or reports.

(2) Give the following notices:

(A) To delinquents to file a statement of organization or a report immediately upon receipt of the notice. A delinquency notice **for a report** must be given not later than thirty (30) days after the date the report was required to be filed. The election division or a county election board may, but is not required to, give delinquency notices at other times.

(B) To persons filing defective reports to make a supplemental statement or report correcting all defects not later than noon five (5) calendar days after receipt of the notice.

(3) Make available for public inspection a list of delinquents and persons who have failed to file the required supplemental statement or report. The election division and each county election board shall post a list of delinquents in a public place at or near the entrance of the commission's or board's respective offices.

(b) The election division shall mail:

(1) to each candidate required to file a campaign finance report with the election division; and

(2) twenty-one (21) days before the campaign finance reports are due;

the proper campaign finance report forms and a notice that states the date the campaign finance reports are due. The election division is required to mail notices and forms only to candidates for state offices and legislative offices. A county election board may, but is not required to, implement this subsection for candidates for local offices.

(c) Notwithstanding any notice given to a delinquent under subsection (a) or (b), the delinquent remains liable for a civil penalty in the full amount permitted under this chapter for failing to file a campaign finance report or statement of organization not later than the date and time prescribed under this article.

SECTION 72. IC 3-9-4-16, AS AMENDED BY P.L.66-2003, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16. (a) In addition to any other penalty imposed, a person who does any of the following is subject to a civil penalty under this section:

(1) Fails to file with the election division a report in the manner required under IC 3-9-5.

(2) Fails to file a statement of organization required under IC 3-9-1.

(3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee.

(4) Makes a contribution other than to a committee subject to this article or to a person authorized by law or a committee to receive contributions on the committee's behalf.

(5) Is a corporation or labor organization that exceeds any of the limitations on contributions prescribed by IC 3-9-2-4.

(6) Makes a contribution in the name of another person.

(7) Accepts a contribution made by one (1) person in the name of another person.

(8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as

authorized by this article.
(9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.
(10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.
(11) Violates IC 3-9-2-12.
(12) Fails to designate a contribution as required by IC 3-9-2-5(c).
(13) Violates IC 3-9-3-5.
(14) Serves as a treasurer of a committee in violation of any of the following:
(A) IC 3-9-1-13(1).
(B) IC 3-9-1-13(2).
(C) IC 3-9-1-18.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the commission determines that a person failed to file the amended report or statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the commission may assess a civil penalty. The penalty is ten dollars ($10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars ($100) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the commission determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the commission shall assess a civil penalty. The penalty is fifty dollars ($50) for each day the report or statement is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars ($1,000) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the commission determines that a person is subject to a civil penalty under subsection (a), the commission may assess a civil penalty of not more than one thousand dollars ($1,000), plus any investigative costs incurred and documented by the election division.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the commission determines that a person is subject to a civil penalty under subsection (a)(5), the commission may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the election division.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the commission determines that a candidate or the candidate's committee has violated IC 3-9-2-12, the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:
(1) Two (2) times the amount of any contributions received.
(2) One thousand dollars ($1,000).

(g) This subsection applies to a person who is subject to a civil penalty under subsection (a)(12). If the commission determines that a corporation or a labor organization has failed to designate a contribution in violation of IC 3-9-2-5(c), the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:
(1) Two (2) times the amount of the contributions undesignated.
(2) One thousand dollars ($1,000).

(h) This subsection applies to a person who is subject to a civil penalty under subsection (a)(13). If the commission determines, by unanimous vote of the entire membership of the commission, that a person has violated IC 3-9-3-5, the commission may assess a civil penalty of not more than five hundred dollars ($500), plus any investigative costs incurred and documented by the election division.

(i) **This subsection applies to a person who is subject to a civil penalty under subsection (a)(14). If the commission determines, by unanimous vote of the entire membership of the commission, that a person has served as the treasurer of a committee in violation of any of the statutes listed in subsection (a)(14), the commission may assess a civil penalty of not more than five hundred dollars ($500), plus any investigative costs incurred and documented by the election division.**

(j) All civil penalties collected under this section shall be deposited with the treasurer of state in the campaign finance enforcement account.

~~(j)~~ **(k)** Proceedings of the commission under this section are subject to IC 4-21.5.

SECTION 73. IC 3-9-4-17, AS AMENDED BY P.L.66-2003, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 17. (a) In addition to any other penalty imposed, a person who does any of the following is subject to a civil penalty under this section:
(1) Fails to file with a county election board a report in the manner required under IC 3-9-5.
(2) Fails to file a statement of organization required under IC 3-9-1.
(3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee.
(4) Makes a contribution other than to a committee subject to this article or to a person authorized by law or a committee to receive contributions in the committee's behalf.
(5) Is a corporation or labor organization that exceeds any of the limitations on contributions prescribed by IC 3-9-2-4.
(6) Makes a contribution in the name of another person.
(7) Accepts a contribution made by one (1) person in the name of another person.
(8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.
(9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.
(10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.
(11) Fails to designate a contribution as required by IC 3-9-2-5(c).
(12) Violates IC 3-9-3-5.
(13) Serves as a treasurer of a committee in violation of any of the following:
(A) IC 3-9-1-13(1).
(B) IC 3-9-1-13(2).
(C) IC 3-9-1-18.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the county election board determines that a person failed to file the report or a statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the county election board may assess a civil penalty. The penalty is ten dollars ($10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars ($100) plus any investigative costs incurred and documented by the board. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the county election board determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the board shall assess a civil penalty. The penalty is fifty dollars ($50) for each day the report is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars ($1,000) plus any investigative costs incurred and documented by the board. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the county election board determines that a person is subject to a civil penalty under subsection (a), the board may assess

a civil penalty of not more than one thousand dollars ($1,000), plus any investigative costs incurred and documented by the board.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the county election board determines that a person is subject to a civil penalty under subsection (a)(5), the board may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the board.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the county election board determines that a corporation or a labor organization has failed to designate a contribution in violation of IC 3-9-2-5(c), the board shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the board:

(1) Two (2) times the amount of the contributions undesignated.

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

(g) This subsection applies to a person who is subject to a civil penalty under subsection (a)(12). If the county election board determines, by unanimous vote of the entire membership of the board, that a person has violated IC 3-9-3-5, the board may assess a civil penalty of not more than five hundred dollars ($500), plus any investigative costs incurred and documented by the board.

(h) **This subsection applies to a person who is subject to a civil penalty under subsection (a)(13). If the county election board determines, by unanimous vote of the entire membership of the board, that a person has served as the treasurer of a committee in violation of any of the statutes listed in subsection (a)(13), the board may assess a civil penalty of not more than five hundred dollars ($500), plus any investigative costs incurred and documented by the board.**

(i) All civil penalties collected under this section shall be deposited with the county treasurer to be deposited by the county treasurer in a separate account to be known as the campaign finance enforcement account. The funds in the account are available, with the approval of the county fiscal body, to augment and supplement the funds appropriated for the administration of this article.

~~(i)~~ **(j)** Money in the campaign finance enforcement account does not revert to the county general fund at the end of a county fiscal year.

~~(j)~~ **(k)** Proceedings of the county election board under this section are subject to IC 4-21.5.

SECTION 74. IC 3-9-5-9, AS AMENDED BY P.L.199-2001, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) Except as provided in subsections (b) and (c), in a year in which a candidate is not a candidate for election to an office to which this article applies or does not seek nomination at a caucus or state convention for election to an office to which this article applies, the treasurer of the candidate's committee shall file only the report required by section 10 of this chapter.

(b) This subsection applies to a candidate who holds one (1) office and is a candidate for a different office (or has filed a statement of organization for an exploratory committee without indicating that the individual is a candidate for a specific office). The treasurer of the candidate's committee for the office the candidate holds shall file the following reports:

(1) If the committee spends, transfers in, or transfers out at least ten thousand dollars ($10,000) from January 1 until twenty-five (25) days before the primary election, the treasurer shall file a pre-primary report under section 6 of this chapter.

(2) If the committee spends, transfers in, or transfers out at least ten thousand dollars ($10,000) from twenty-five (25) days before the primary election until twenty-five (25) days before the general election, the treasurer shall file a pre-general election report under section 6 of this chapter.

(3) The report required under section 10 of this chapter.

(c) This subsection applies to a candidate who is required to file a pre-primary report or pre-convention report under section 6 of this chapter and who:

(1) is defeated at the primary election or convention; or

(2) withdraws or is disqualified as a candidate before the general election.

The treasurer of a candidate's committee described by this subsection is not required to file a pre-general election report under section 6 of this chapter but shall file the report required by section 10 of this chapter.

(d) This subsection applies to a candidate for election to a city office or a town office. If a municipal primary is not conducted in the municipality by one (1) or more parties authorized to conduct a primary, the candidate must file a report in accordance with the schedule set forth in section 6 of this chapter as if the primary were conducted. If a municipal election is not conducted in the municipality, the candidate must file a report in accordance with section 6 of this chapter as if the municipal election were conducted.

SECTION 75. IC 3-10-1-14.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14.1. (a) All the candidates for each office who have qualified in the manner prescribed by IC 3-8 for placement on the primary election ballot shall be grouped together under the name of the office and printed in type with uniform capital letters, with uniform space between each name. At the head of each group where only one (1) candidate for each group is to be voted for, the words "vote for one (1) only" shall be printed. If more than one (1) candidate in a group is to be voted for, the number to be voted for shall be specified at the head of the group.**

(b) This subsection does not apply to a candidate for a political party office. A candidate's given name and surname as set forth in the candidate's voter registration record shall be printed in full.

(c) In addition to the candidate's given name and surname, the candidate may use:

(1) initials; or

(2) a nickname by which the candidate is commonly known; if the candidate's choice of initials or nickname does not exceed twenty (20) characters. Any nickname used must appear in parentheses between the candidate's given name and the candidate's surname.

(d) A candidate may not use a designation such as a title or degree or a nickname that implies a title or degree.

(e) A candidate's name must be printed on the ballot exactly as the name appears on the candidate's certificate of nomination, petition of nomination, or declaration of candidacy.

SECTION 76. IC 3-10-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. Each political party holding a primary election shall have a separate ticket, either in printed ballot form as prescribed by sections 13 and ~~14~~ **14.1** of this chapter, or on separate ballot labels. The name of each candidate who has qualified under IC 3-8 shall be placed on the ballot under a designation of the office for which the person is a candidate. However, the name of a candidate may not appear on the ballot of more than one (1) party for the same office.

SECTION 77. IC 3-10-1-31, AS AMENDED BY P.L.209-2003, SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) **This section applies to election materials for elections held before January 1, 2004.**

(b) 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)~~ **(c)** 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)~~ **(d)** This subsection applies before January 1, 2006. Upon delivery of the poll lists, the ~~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;

(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~~ **15483** and IC 3-11-8 or IC 3-11-10;

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 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).~~ **(c).**

~~(d)~~ **(e)** 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).~~ **(c).**

~~(c)~~ **(f)** After the expiration of the period described in subsection ~~(b),~~ **(c),** 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 78. IC 3-10-1-31.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 31.1. (a) This section applies only to election materials for elections held after December 31, 2003.**

(b) 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.

(c) Except for unused ballots disposed of under IC 3-11-3-31 or affidavits received by the county election board under IC 3-14-5-2 for delivery to the foreman of a grand jury, the circuit court clerk shall seal the ballots and other material during the time allowed to file a verified petition or cross-petition for a recount of votes or to contest the election. Except as provided in subsection (d), after the recount or contest filing period, the election material (except for ballots, which remain confidential) shall be made available for copying and inspection under IC 5-14-3. The circuit court clerk shall carefully preserve the sealed ballots and other material for twenty-two (22) months, as required by 42 U.S.C. 1974, after which the sealed ballots and other material are subject to IC 5-15-6 unless an order issued under:

(1) 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.

(d) If a petition for a recount or contest is filed, the material for that election remains confidential until completion of the recount or contest.

(e) This subsection applies before January 1, 2006. Upon delivery of the poll lists, 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;
(3) a change of name made under IC 3-7-41;
(4) adding the registration of a voter under IC 3-7-48-8; or
(5) recording that a voter subject to IC 3-7-33-4.5 submitted the documentation required under 42 U.S.C. 15483 and IC 3-11-8 or IC 3-11-10;

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 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 preserved with the ballots and other materials in the manner prescribed by subsection (c) for the period prescribed by subsections (c) and (d).

(f) 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;
(2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;
(3) a change of name made under IC 3-7-41; or
(4) adding the registration of a voter under IC 3-7-48-8;

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 preserved with the ballots and other materials in the manner prescribed by subsection (c) for the period prescribed by subsections (c) and (d).

(g) This subsection does not apply to ballots. Notwithstanding subsection (c), if a county voter registration office determines that the inspection and copying of precinct election material would reveal the political parties, candidates, and public questions for which an individual cast an absentee ballot, the county voter registration office shall keep confidential only that part of the election material necessary to protect the secrecy of the voter's ballot.

(h) After the expiration of the period described in subsection (c) or (d), 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 79. IC 3-10-2-7, AS AMENDED BY P.L.122-2000, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. The following public officials shall be elected in 2002 and every four (4) years thereafter:

(1) Secretary of state.
(2) Auditor of state.
(3) Treasurer of state.
~~(4) Clerk of the supreme court.~~

SECTION 80. IC 3-10-4-5, AS AMENDED BY P.L.66-2003, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) This subsection applies to a major political party and to a political party subject to IC 3-8-4-10. The state chairman of each political party shall certify to the election division the names of the nominees of the party for President and Vice President of the United States and the state of which each nominee is a resident.

(b) If candidates for presidential electors are nominated by petitioners instead of by a convention of a major political party or a party subject to IC 3-8-4-10, the petitioners shall certify with the list of names of electors:

(1) the names of their nominees for President and Vice President of the United States;
(2) the state of which each nominee is a resident; and
(3) the name of the political party of the nominees, or that the nominees are an independent ticket.

(c) This subsection applies to a political party described in subsection (a) and to candidates nominated by petitioners under subsection (b). The names of:

(1) all candidates for presidential electors; and
(2) all nominees for President and Vice President of the United States;

shall be certified to the election division not later than noon on the second Tuesday in September before the general election. The election division shall certify to each county election board not later

than noon on the ~~second~~ **next following** Thursday in September before the general election the names of the nominees for President and Vice President of the United States certified to the election division under this subsection.

(d) The names of all candidates for presidential electors for a write-in candidate shall be included on the declaration for candidacy filed by a write-in candidate for the office of President or Vice President of the United States filed under IC 3-8-2.

SECTION 81. IC 3-10-6-5, AS AMENDED BY P.L.122-2000, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. Except as otherwise provided in this chapter, a municipal election shall be held on the first Tuesday after the first Monday in November ~~2003~~ **2007** and every four (4) years thereafter. At the election, public officials shall be elected to each municipal ~~and school board~~ office.

SECTION 82. IC 3-10-6-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7.5. (a) Subject to subsection (b), an election may not be held for a municipal office if:

(1) there is only one (1) nominee for the office **or only one (1) person has filed a declaration of intent to be a write-in candidate for the office under IC 3-8-2-2.5;** and

(2) no person has filed a declaration of intent to be a write-in candidate for the office under IC 3-8-2-2.5 **that results in a contest for election to the same municipal office.**

(b) Except as provided in subsection (c), if there is an election for any office of the municipality, all nominees for each office must be on the ballot.

(c) If:

(1) there is an election for at least one (1) of a municipality's legislative body members;

(2) only the voters who reside in a legislative body district are eligible to vote in the election for a legislative body member; and

(3) there is no election for an office to be voted on by all voters of the municipality;

the county election board may, by unanimous vote of the entire membership of the board, adopt a resolution providing that an election will be held only in the legislative body districts within the municipality in which voters will elect legislative body members under subdivision (2). The names of unopposed candidates for an office to be voted on by all voters of the municipality shall not be placed on the ballot used for the election of municipal legislative body members under this subsection.

SECTION 83. IC 3-10-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. **Except as otherwise provided in this chapter,** the county election board, county executive, circuit court clerk, **voters,** and members of political parties in each county in which a municipal primary election or municipal election will be held have the rights and shall perform the duties and furnish the assistance that they are required to do for a primary and general election under IC 3-10-1 and IC 3-11-8.

SECTION 84. IC 3-10-7-4, AS AMENDED BY P.L.66-2003, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) A county election board and a town may enter into a written agreement providing that the county election board will conduct a municipal **primary or a municipal** election, **or both,** in the town.

(b) A town that enters into an agreement described in subsection (a) shall continue to nominate candidates by convention conducted under IC 3-8-5 or by petition filed under IC 3-8-6 unless the town nominates candidates in a primary election as provided in IC 3-8-5-2.

(c) An agreement may not be entered into after ~~July 1~~ **September 21** of a year in which a municipal election is to be held in the town.

(d) A county election board that enters into an agreement under this section shall conduct the municipal election in the same manner as it conducts a general election in a town that has a population of three thousand five hundred (3,500) or more.

SECTION 85. IC 3-10-7-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.5. (a) The county election board shall conduct a municipal election in a town ~~that has a population of less than five hundred (500)~~ unless the town legislative body adopts a resolution during the period:

(1) beginning January 1; and

(2) ending ~~April 1;~~ **August 8;**

before the municipal election to establish a town election board under this chapter to conduct the municipal election.

(b) The town clerk-treasurer must file a copy of the resolution with the circuit court clerk of the county having the greatest percentage of the population of the town ~~before May 1~~ **not later than noon August 21** after the resolution is adopted.

(c) A resolution adopted under this section expires December 31 after its adoption.

SECTION 86. IC 3-10-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) A municipal election conducted under this chapter shall be held at the time prescribed by IC 3-10-6.

(b) Subject to subsection (c), an election may not be held for a municipal office if:

(1) there is only one (1) nominee for the office **or only one (1) person has filed a declaration of intent to be a write-in candidate for the office under IC 3-8-2-2.5;** and

(2) no person has filed a declaration of intent to be a write-in candidate for the office under IC 3-8-2-2.5 **that results in a contest for election to the same municipal office.**

(c) Except as provided in subsection (d), if there is an election for any office of the municipality, all nominees for each office must be on the ballot.

(d) If:

(1) there is an election for at least one (1) of the town's legislative body members;

(2) only the voters who reside in a legislative body district are eligible to vote in the election for a legislative body member; and

(3) there is no election for an office to be voted on by all voters of the town;

the county election board (or town election board if that board is conducting the election under this chapter) may, by unanimous vote of the entire membership of the board, adopt a resolution providing that an election will be held only in the legislative body districts within the town in which voters will elect legislative body members under subdivision (2). The names of unopposed candidates for an office to be voted on by all voters of the town shall not be placed on the ballot used for the election of town legislative body members under this subsection.

SECTION 87. IC 3-10-7-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 21. Except as otherwise provided in this chapter, a town election board conducting a municipal election under this chapter, the town executive, the town clerk-treasurer, **voters,** and members of political parties in each town in which a municipal election is conducted under this chapter have the same rights and powers, shall perform the same duties, and are subject to the same qualifications and penalties as a county election board that is conducting a general election, or the county executive, circuit court clerk, or member of a political party in a town in which a general election is conducted by the county election board.

SECTION 88. IC 3-10-7-33, AS AMENDED BY P.L.209-2003, SECTION 102, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 **or IC 3-10-1-31.1.**

SECTION 89. IC 3-10-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Except as provided in subsection (b) or (c), if a special election is held at a time other than the time of a general election, the election shall be held in accordance with this title. Each county election board and other local public official who is required to perform any duties in connection with a general election shall perform the same duties for the special election, subject to the same provisions and penalties as for a general election.

(b) If a special election is held:

(1) under a court order under IC 3-12-8; or

(2) for a local public question;

the county election board may provide that several precincts may vote in the special election at the same polling place, if the county election board finds by unanimous vote of the entire membership of the board that the consolidation of polling places will not result in undue inconvenience to voters.

(c) If a special election is held:

(1) under a court order under IC 3-12-8 for a school board office; or

(2) for a local public question;

the county election board may by unanimous vote of the entire membership of the board adopt a resolution to provide that each precinct election board will include only one (1) inspector and one (1) judge, and that only one (1) sheriff and one (1) poll clerk may be nominated as precinct election officers. **If the board has adopted a resolution under subsection (b), a resolution adopted under this subsection may also provide for more than one (1) precinct to be served by the same precinct election board.** A resolution adopted under this subsection may not be rescinded by the county election board and expires the day after the special election is conducted.

(d) The following procedures apply if a county election board adopts a resolution under subsection (c):

(1) The inspector shall be nominated by the county chairman entitled to nominate an inspector under IC 3-6-6-8.

(2) The judge shall act as a clerk whenever this title requires that two (2) clerks perform a duty.

(3) The poll clerk shall act as a judge whenever this title requires that two (2) judges perform a duty.

SECTION 90. IC 3-10-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) If the special election occurs during the period when registration is open under IC 3-7-13, the registration period continues through the twenty-ninth day before the special election occurs and resumes on the ~~first day of the month following the month in which the special election is conducted.~~ **date specified by IC 3-7-13-10(d).**

(b) The election board conducting the special election shall provide poll lists for use at the precincts that include the names of voters in the precinct who:

(1) have registered through the twenty-ninth day before the special election is to be conducted; or

(2) are absent uniformed services voters or overseas voters registered under IC 3-7-36.

(c) This subsection applies when a special election is ordered by a court under IC 3-12-8-17 or the state recount commission under IC 3-12-11-18. A candidate may not be placed on the special election ballot unless the candidate was on the ballot or was a declared write-in candidate for the office at the general election preceding the special election.

(d) The restrictions on the sale of alcoholic beverages set forth in IC 7.1-5-10-1 apply in each precinct in which the special election is conducted.

SECTION 91. IC 3-11-1.5-15, AS AMENDED BY P.L.212-2001, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. The order described in section 14 of this chapter must include the following:

(1) A map of each precinct to be established by the proposed order. A county may submit maps required by this subdivision in electronic form.

(2) A description of the boundaries of each precinct to be established by the proposed order that identifies any census blocks located entirely within the precinct.

(3) An estimated number of voters in each precinct to be established by the proposed order, based on the registration records maintained by the ~~circuit court clerk or board of~~ **county voter** registration **office.**

(4) A statement designating a polling place for the precinct that complies with the polling place accessibility requirements adopted ~~by the commission.~~ **under IC 3-11-8.**

(5) Any additional information required by rules adopted by the commission under IC 4-22-2.

SECTION 92. IC 3-11-1.5-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 33. **(a)** If the boundaries of a municipality are extended before

~~(1) thirty (30) days before~~ a municipal primary election or

~~(2) thirty (30) days before~~ a municipal election,

and the territory within those boundaries has not been included in precincts wholly within the municipality, the voters within the extended boundaries may vote, if otherwise qualified, in the municipal primary election or municipal election.

(b) The voters may vote in the precinct in which they have their residence as if the precinct had been established to include them in a precinct wholly within the municipality. These votes shall be counted and included in the canvass of the votes cast in the municipal primary election or municipal election.

SECTION 93. IC 3-11-2-2, AS AMENDED BY P.L.66-2003, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. **(a)** Each county election board shall have the:

(1) names of all candidates for United States Representative, legislative offices, and local offices; and

(2) local public questions;

in election districts within the county printed on a ballot as provided in this chapter. The county may print all offices on a single ballot under this section.

(b) This section expires January 1, 2005.

SECTION 94. IC 3-11-2-2.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2.1. (a) This section applies after December 31, 2004.**

(b) Each county election board shall have the:

(1) names of all candidates for election to offices or retention in offices; and

(2) state and local public questions;

in election districts wholly or partially within the county printed on a ballot as provided in this chapter. The county may print all offices on a single ballot under this section.

SECTION 95. IC 3-11-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The device named and list of nominees shall be placed on the ballots as follows:

(1) The major political party whose candidate received the highest number of votes in the county for secretary of state at the last election in the first column or row on the left side of all ballots.

(2) The major political party whose candidate received the second highest number of votes in the county for secretary of state at the last election in the second column or row.

(3) Any other political party in the same order.

(b) If a political party did not have a candidate for secretary of state in the last election or a nominee is an independent candidate (or **an independent** ticket **for President and Vice President of the United States or for governor and lieutenant governor),** the party or independent candidate or ticket shall be placed on the ballot after the parties described in subsection (a). If more than one (1) political party or independent candidate or ticket that has qualified to be on the ballot did not have a candidate for secretary of state in the last election, those parties, candidates, or tickets shall be listed on the ballot in the order in which the party filed its petition of nomination under IC 3-8-6-12.

(c) **Subject to subsection (e),** a column or row for write-in voting shall be placed to the right of all party and independent columns on the ballot.

(d) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). If there is insufficient room on a row to list each candidate of a political party, a second or subsequent row may be utilized. However, a second or subsequent row may not be utilized unless the first row, and all preceding rows, have been filled.

(e) A column or row for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

SECTION 96. IC 3-11-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The device of each political party or independent ticket **described in section 6 of this chapter** shall be:

(1) enclosed in a circle not less than three-fourths (3/4) of an

inch in diameter; and

(2) placed under the name of the party or independent ticket, as required by section 10 of this chapter.

SECTION 97. IC 3-11-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) The name or title of the political party or independent ticket **described in section 6 of this chapter** shall be placed at the top of the ballot. The device of the political party or independent ~~candidate~~ **ticket** shall be placed immediately under the name of the political party or independent ticket. The instructions for voting a straight party ticket shall be placed to the right of the device, or if the ballot is part of a direct recording electronic voting system:

(1) the instructions for voting a straight party ticket; and

(2) the statement concerning presidential electors required under IC 3-10-4-3;

may be posted in any location within the voting booth that permits the voter to easily read the instructions instead of on the ballot face.

(b) The instructions for voting a straight party ticket must conform as nearly as possible to the following: "To vote a straight (insert political party name) ticket for all (political party name) candidates on this ballot, make a voting mark on or in this circle and do not make any other marks on this ballot. If you wish to vote for a candidate seeking a nonpartisan office or on a public question, you must make another voting mark on the appropriate place on this ballot.".

(c) If the ballot contains an independent ticket **described in section 6 of this chapter** and at least one (1) other independent candidate, the ballot must also contain a statement that reads substantially as follows: "A vote cast for an independent ticket will only be counted for the candidates for President and Vice President or governor and lieutenant governor comprising that independent ticket. This vote will NOT be counted for any OTHER independent candidate appearing on the ballot.".

(d) The ballot must also contain a statement that reads substantially as follows: "A write-in vote will NOT be counted unless the vote is for a DECLARED write-in candidate. To vote for a write-in candidate, you must make a voting mark on or in the square to the left of the name you have written in or your vote will not be counted.".

(e) Except for variations in ballot arrangement permitted for voting machines under IC 3-11-12-7, ballot card voting systems under IC 3-11-13-11, or electronic voting systems under IC 3-11-14-7, the list of candidates of the political party shall be placed immediately under the instructions for voting a straight party ticket. The names of the candidates shall be placed three-fourths (3/4) of an inch apart from center to center of the name. The name of each candidate must have, immediately on its left, a square three-eighths (3/8) of an inch on each side.

(f) The election division or the circuit court clerk may authorize the printing of ballots containing a ballot variation code to ensure that the proper version of a ballot is used within a precinct.

SECTION 98. IC 3-11-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. The following offices shall be placed on the general election ballot in the following order:

(1) Federal and state offices:
- (A) President and Vice President of the United States.
- (B) United States Senator.
- (C) Governor and lieutenant governor.
- (D) Secretary of state.
- (E) Auditor of state.
- (F) Treasurer of state.
- (G) Attorney general.
- (H) Superintendent of public instruction.
- ~~(I) Clerk of the supreme court.~~
- ~~(J)~~ **(I)** United States Representative.

(2) Legislative offices:
- (A) State senator.
- (B) State representative.

(3) Circuit offices and county judicial offices:
- (A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.
- (B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.
- (C) Judge of the probate court.
- (D) Judge of the county court, with each division separate, as required by ~~IC 33-10.5-4-2.~~ **IC 33-30-3-3.**
- (E) Prosecuting attorney.
- (F) Clerk of the circuit court.

(4) County offices:
- (A) County auditor.
- (B) County recorder.
- (C) County treasurer.
- (D) County sheriff.
- (E) County coroner.
- (F) County surveyor.
- (G) County assessor.
- (H) County commissioner.
- (I) County council member.

(5) Township offices:
- (A) Township assessor.
- (B) Township trustee.
- (C) Township board member.
- (D) Judge of the small claims court.
- (E) Constable of the small claims court.

(6) City offices:
- (A) Mayor.
- (B) Clerk or clerk-treasurer.
- (C) Judge of the city court.
- (D) City-county council member or common council member.

(7) Town offices:
- (A) Clerk-treasurer.
- (B) Judge of the town court.
- (C) Town council member.

SECTION 99. IC 3-11-2-12.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12.7. (a) This section applies to candidates for election to at-large seats on the fiscal or legislative body of a political subdivision.

(b) Candidates shall be listed in alphabetical order according to surname within each row or column on the ballot.

(c) In each row or column on the ballot in which the names of candidates appear, the ballot shall contain a statement reading substantially as follows above the name of the first candidate: "Vote for not more than (insert number of candidates to be elected) candidates of ANY party or ticket for this office.".

(d) If more than one (1) candidate for an at-large seat was nominated by the same petition of nomination, these candidates shall be listed in alphabetical order by surname within the same row or column on the ballot, with the position of the row or column being determined under section 6 of this chapter.

SECTION 100. IC 3-11-3-2, AS AMENDED BY P.L.126-2002, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The election division shall have printed and shall distribute to the circuit court clerk of each county at each general election the following:

(1) If only paper ballots are used, the number of state paper ballots (and presidential ballots in a presidential election year) equal to one hundred percent (100%) of the number of voters in the county.

(2) If voting machines, ballot card voting systems, or electronic voting systems are used, only the number of presidential and state paper ballots that, in the election division's judgment, are necessary to meet an emergency.

(3) ~~After December 31, 2003,~~ The number of provisional ballots for state offices (and provisional ballots for **electors for** President of the United States in presidential election years) that the election division considers necessary.

(b) The paper ballots shall be wrapped in packages, plainly marked, and securely sealed.

(c) The provisional ballots shall be separately wrapped in packages from the other paper ballots, plainly marked, and securely sealed.

(d) The clerk shall give a receipt for the paper ballots and the provisional ballots.

SECTION 101. IC 3-11-4-1, AS AMENDED BY P.L.126-2002, SECTION 47, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A voter who is otherwise qualified to vote in person is entitled to vote by absentee ballot. Except as otherwise provided in this article, a voter voting by absentee ballot must vote in the office of the circuit court clerk **(or board of elections and registration in a county subject to IC 3-6-5.2)** or at a satellite office established under IC 3-11-10-26.3.

(b) A county election board, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person to vote by absentee ballot if the board determines that the person has been hospitalized or suffered an injury following the final date and hour for applying for an absentee ballot that would prevent the person from voting in person at the polls.

(c) The commission, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person to vote by absentee ballot if the commission determines that an emergency prevents the person from voting in person at a polling place.

(d) The absentee ballots used in subsection (b) or (c) must be the same official absentee ballots as described in section 12 and 13 of this chapter. Taking into consideration the amount of time remaining before the election, the commission shall determine whether the absentee ballots are transmitted to and from the voter by mail or personally delivered. An absentee ballot that is personally delivered shall comply with the requirements in sections 19, 20, and 21 of this chapter.

SECTION 102. IC 3-11-4-3, AS AMENDED BY P.L.1-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in subsection (b) and section 6 of this chapter, an application for an absentee ballot must be received by the circuit court clerk (or, in a county subject to IC 3-6-5.2, the director of the board of elections and registration) not earlier than ninety (90) days before election day nor later than the following:

(1) Noon on election day if the voter registers to vote under IC 3-7-36-14.

(2) Noon on the day before election day if the voter completes the application in the office of the circuit court clerk **or is an absent uniformed services voter or overseas voter who requests that the ballot be transmitted by fax under section 6(h) of this chapter.**

(3) Noon on the day before election day if:

(A) the application is a mailed or hand delivered application from a confined voter or voter caring for a confined person; and

(B) the applicant requests that the absentee ballots be delivered to the applicant by an absentee voter board.

(4) Midnight on the eighth day before election day if the application:

(A) is a mailed application; or

(B) was transmitted by fax;

from other voters.

(b) This subsection applies to an absentee ballot application from a confined voter or voter caring for a confined person that is sent by fax, mailed, or hand delivered to the circuit court clerk of a county having a consolidated city. An application subject to this subsection that is sent by fax or hand delivered must be received by the circuit court clerk not earlier than ninety (90) days before election day nor later than 10 p.m. on the fifth day before election day. An application subject to this subsection that is mailed must be received by the circuit court clerk not earlier than ninety (90) days before election day and not later than 10 p.m. on the eighth day before election day.

SECTION 103. IC 3-11-4-12, AS AMENDED BY P.L.38-1999, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The absentee ballots for:

(1) President and Vice President of the United States;

(2) United States Senator;

(3) all state offices; and

(4) the ratification or rejection of a public question to be voted for by the electorate of the entire state or for the retention of a judge of the Indiana court of appeals;

shall be prepared and printed under the direction of the election division.

(b) The election division shall have the ballots printed upon certification of the political party tickets and independent candidates.

(c) **Except as provided in subsection (f),** ballots prepared under this section must provide space for the voter to cast a write-in ballot.

(d) The election division shall prepare a special absentee ballot for use by:

(1) absent uniformed services voters; and

(2) overseas voters;

who will be outside of the United States on general election day.

(e) The ballot described by subsection (d):

(1) must indicate each state office to be elected by the voters at the general election;

(2) must set forth each public question to be voted for at the general election by the electorate of the entire state;

(3) may not state the name of any political party or candidate for election;

(4) must permit the voter to write in the name of a political party or a candidate for election to each office; and

(5) must include a notice stating that regular absentee ballots will be mailed to the voter by the county election board as soon as the ballots are available.

(f) Space for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

SECTION 104. IC 3-11-4-14, AS AMENDED BY P.L.66-2003, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. **(a)** All absentee ballots other than those specified in section 12 of this chapter shall be prepared and printed under the direction of each county election board. After completing the estimate required by section 10 of this chapter and receiving all certifications from the election division required under IC 3-8 or IC 3-10, the county election board shall immediately proceed to prepare and have printed the ballots.

(b) Except as provided in subsection (c), ballots prepared by the county election board under this section must provide space for the voter to cast a write-in ballot.

(c) Space for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

SECTION 105. IC 3-11-4-18, AS AMENDED BY P.L.209-2003, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: 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 **as an absentee ballot, and that, if the documentation required under IC 3-7-33-4.5 is filed after noon and before 6 p.m. on election day, the ballot will be processed as a provisional ballot.** The commission shall prescribe the form of this notice under IC 3-5-4-8.

(c) The ballot shall be mailed:

(1) on the day of the receipt of the voter's application; or

(2) not more than five (5) days after the date of delivery of the ballots under section 15 of this chapter;

whichever is later.

(d) In addition to the ballot mailed under subsection (c), the county election board shall mail a special absentee ballot for overseas voters.

(e) The ballot described in subsection (d):

(1) must be mailed:

(A) on the day of the receipt of the voter's application; or

(B) not more than five (5) days after the **latest** date ~~of~~ **for** delivery of the ballots under section 13(b) of this chapter **applicable to that election;**

whichever is later; and

(2) may not be mailed after the absentee ballots described by section 13(a) of this chapter have been delivered to the circuit court clerk or the clerk's authorized deputy.

(f) 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~~ **votes** 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 106. IC 3-11-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A voting machine must permit a voter to vote:

(1) except at a primary election, for:

(A) all the candidates of one (1) political party;

(B) one (1) or more candidates of each political party;

(C) one (1) or more candidates nominated by petition under IC 3-8-6; or

(D) a write-in candidate, unless the procedures in subsection (b) are followed;

(2) for as many candidates for an office as the voter may vote for, but no more;

(3) for or against a public question on which the voter may vote, but no other; and

(4) for all the candidates for presidential electors of a political party or an independent ticket at one (1) time.

(b) **Except as provided in subsection (c),** in a precinct using voting machines that do not permit write-in votes, the precinct election board shall provide a paper ballot to a voter who requests to cast a write-in vote. After such a request, a poll clerk, an assistant poll clerk, or a member of the precinct election board shall:

(1) require the voter to sign the poll list; and

(2) inform the voter of the procedure that must be followed to cast a write-in vote.

(c) Paper ballots for write-in voting for an office are not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

SECTION 107. IC 3-11-6.5-2.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.1. The secretary of state, with the consent of the co-directors of the election division, may administer the fund in accordance with the HAVA state plan, as published in the Indiana Register on November 1, 2003. The state plan may be amended in accordance with the requirements of HAVA and the procedures for amendment set forth in the plan. If the plan is amended as provided in this section, the fund may be administered in accordance with that amendment.**

SECTION 108. IC 3-11-7-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) A proposed improvement or change to a ballot card voting system shall be reported to the election division by:

(1) the vendor, if a vendor is involved in the proposed change; and

(2) the county election board, if a county is proposing the change.

A proposed improvement or change may not be **marketed, sold, leased, installed, or** implemented **in Indiana** before the improvement or change is approved by the commission.

(b) A report of an improvement or change must be in the form prescribed by the commission.

(c) The election division (or a competent person designated by the commission to act on behalf of the election division) shall review the improvement or change to the voting system and report the results of the review to the commission. The commission shall determine, within a reasonable period of time, whether the improvement or change impairs the accuracy, efficiency, capacity, or ability to meet the requirements of this chapter or the standards adopted by the commission under section 2 of this chapter.

(d) After the commission has approved an improvement or change, the improvement or change may be **marketed, sold, leased, installed, or** implemented **in Indiana.**

SECTION 109. IC 3-11-7-17, AS AMENDED BY P.L.126-2002, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) The election division (or a competent person designated by the commission to act on behalf of the election division) may periodically examine a ballot card voting system that the commission has previously approved to determine if the system is still in compliance with all statutory requirements.

(b) If the election division or competent person finds that a system examined under subsection (a) fails to meet all requirements and standards, and the commission concurs in these findings, the commission may, by unanimous vote of all of the members of the commission, rescind the commission's approval of the ~~vendor.~~ **voting system.**

(c) If the commission's approval is rescinded under subsection (b), the commission may, by unanimous vote of all of the members of the commission:

(1) recommend that use of the system be discontinued; and

(2) prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

(d) This subsection applies to a ballot card voting system approved for its initial certification before:

(1) March 25, 1992; or

(2) a revision of IC 3-11-15 enacted after July 1, 1997, that imposes additional standards that did not apply to the voting system at the time of the system's initial certification.

The commission may, by unanimous consent of its entire membership, require the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.

(e) If the independent testing authority determines that a voting system tested under subsection (d) does not comply with this article, the commission may, by unanimous consent of its entire membership, prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

SECTION 110. IC 3-11-7-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) **Except as provided in subsection (g),** the approval of a ballot card voting system under this chapter expires five (5) years after the date the commission approves the system.

(b) The vendor of a voting system approved under this chapter may request that the approval be renewed by filing an application with the election division.

(c) The application described in subsection (b) must identify all counties that are currently using the voting system. Before considering the application for renewal, the election division shall give notice by regular United States mail of the application to the circuit court clerk of each county listed in the application.

(d) When the commission considers the application, the

commission shall request comments regarding the renewal of the application from any interested person.

(e) The commission may, by unanimous consent of its entire membership, order the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.

(f) The commission shall approve an application for renewal under this section if the commission finds that the voting system:

(1) complies with the standards prescribed under this chapter;

(2) has worked effectively where the system has been used; and

(3) has been adequately supported by the vendor of the system.

(g) If the commission finds that a vendor has marketed, sold, leased, installed, implemented, or permitted the use of a voting system in Indiana that:

(1) has not been certified by the commission for use in Indiana; or

(2) includes hardware, firmware, or software in a version that has not been approved for use in Indiana;

the commission may revoke the approval granted under this section and prohibit the vendor from marketing, leasing, or selling any voting system in Indiana for a specific period not to exceed five (5) years.

(h) A vendor subject to subsection (g) may continue to provide support during the period specified in subsection (g) to a county that has acquired a voting system from the vendor after the vendor certifies that the voting system to be supported by the vendor only includes hardware, firmware, and software approved for use in Indiana.

SECTION 111. IC 3-11-7.5-5, AS AMENDED BY P.L.176-1999, SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A proposed improvement or change to an electronic voting system shall be reported to the election division by:

(1) the vendor, if a vendor is involved in the proposed change; and

(2) the county election board, if a county is proposing the change.

A proposed improvement or change may not be **marketed, sold, leased, installed, or** implemented **in Indiana** before the improvement or change is approved by the commission.

(b) A report of an improvement or change must be in the form prescribed by the commission.

(c) The election division (or a competent person designated by the commission to act on behalf of the election division) shall review the improvement or change to the voting system and report the results of the review to the commission. The commission shall determine within a reasonable period of time whether the improvement or change impairs the accuracy, efficiency, capacity, or ability to meet the requirements of this article.

(d) After the commission has examined and approved an improvement or change to an electronic voting system, the improvement or change may be **marketed, sold, leased, installed, or** implemented **in Indiana.**

SECTION 112. IC 3-11-7.5-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. The county election board may provide for the experimental use of an electronic voting system at an election in one (1) or more precincts in the county. The system may be used without a formal adoption **by the county** or purchase but **the electronic voting system** must be approved by the commission **before the system is implemented in or used by the county.** The experimental use of a system at an election **in accordance with this section** is valid for all purposes as if formally adopted **by the county.**

SECTION 113. IC 3-11-7.5-26, AS AMENDED BY P.L.126-2002, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) The election division (or a competent person designated by the commission to act on behalf of the election division) may periodically examine an electronic voting system that the commission has previously approved to determine if that system is still in compliance with all statutory requirements.

(b) If the election division or competent person finds that a system examined under subsection (a) fails to meet all requirements and standards, and the commission concurs in these findings, the commission may, by unanimous vote of all of the members of the commission, rescind the commission's approval of the ~~vendor.~~ **voting system.**

(c) If the commission's approval is rescinded under subsection (b), the commission may by unanimous vote of all of the members of the commission:

(1) recommend that use of the system be discontinued; and

(2) prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

(d) This subsection applies to an electronic voting system approved for its initial certification before:

(1) March 25, 1992; or

(2) a revision of IC 3-11-15 enacted after July 1, 1997, that imposes additional standards that did not apply to the voting system at the time of the system's initial certification.

The commission may, by unanimous consent of its entire membership, require the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.

(e) If the independent testing authority determines that a voting system tested under subsection (d) does not comply with this article, the commission may, by unanimous consent of its entire membership, prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

SECTION 114. IC 3-11-7.5-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) **Except as provided in subsection (g),** the approval of an electronic voting system under this chapter expires five (5) years after the date the commission approves the system.

(b) The vendor of a voting system approved under this chapter may request that the approval be renewed by filing an application with the election division.

(c) The application described in subsection (b) must identify all counties that are currently using the voting system. Before the commission considers the application for renewal, the election division shall give notice by regular United States mail of the application to the circuit court clerk of each county listed in the application.

(d) When the commission considers the application, the election division shall request comments regarding the renewal of the application from any interested person.

(e) The commission may, by unanimous consent of the commission's entire membership, order the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.

(f) The commission shall approve an application for renewal under this section if the commission finds that the voting system:

(1) complies with the standards prescribed under this chapter;

(2) has worked effectively where the system has been used; and

(3) has been adequately supported by the vendor of the system.

(g) If the commission finds that a vendor has marketed, sold, leased, installed, implemented, or permitted the use of a voting system in Indiana that:

(1) has not been certified by the commission for use in Indiana; or

(2) includes hardware, firmware, or software in a version that has not been approved for use in Indiana;

the commission may revoke the approval granted under this section and prohibit the vendor from marketing, leasing, or selling any voting system in Indiana for a specific period not to exceed five (5) years.

(h) A vendor subject to subsection (g) may continue to provide support during the period specified in subsection (g) to a county that has acquired a voting system from the vendor after the vendor certifies that the voting system to be supported by the vendor only includes hardware, firmware, and software approved for use in Indiana.

SECTION 115. IC 3-11-8-4.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.3. If ~~a precinct contains less than two hundred fifty (250) active voters,~~ **the county election board adopts an order by the unanimous vote of the entire membership of the board,** the county executive may locate

the polls for the precinct at the polls for an adjoining precinct, using the precinct election board of the adjoining precinct. **An order adopted under this section expires December 31 after the date the order was adopted.**

SECTION 116. IC 3-11-8-15, AS AMENDED BY P.L.209-2003, SECTION 130, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) **Only the following** persons ~~other than~~ **are permitted in the polls during an election:**

(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) Watchers. ~~and~~
(7) **Voters for the purposes of voting.**
(8) Minor children accompanying voters as provided under IC 3-11-11-8 and IC 3-11-12-29. ~~and~~
~~(8)~~ **(9)** 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.~~

(10) An individual authorized to assist a voter in accordance with IC 3-11-9.
(11) A member of a county election board, acting on behalf of the board.
(12) A mechanic authorized to act on behalf of a county election board to repair a voting system (if the mechanic bears credentials signed by each member of the board).
(13) Either of the following who have been issued credentials signed by the members of the county election board:
(A) The county chairman of a political party.
(B) The county vice chairman of a political party.

(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 117. IC 3-11-8-25.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 25.2. (a) This section applies after December 31, 2005.**

(b) The poll clerk or assistant poll clerk shall examine the list provided under IC 3-7-29-1 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 (c) to the poll clerk.

(c) 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.
(2) A current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter.

(d) If a voter presents a document under subsection (c), 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.

(e) If a voter required to present documentation under subsection (c) 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.

(f) 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.

SECTION 118. IC 3-11-8-26, AS AMENDED BY P.L.209-2003, SECTION 137, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 **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.

(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 119. IC 3-11-8-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. Each inspector shall return the poll lists, together with the oaths of the precinct election board members, in a sealed envelope separate from all other precinct election returns to the circuit court clerk. The clerk shall preserve the poll lists for the period required by IC 3-10-1-31 **or IC 3-10-1-31.1.**

SECTION 120. IC 3-11-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A voter who:

(1) is a voter with disabilities; or
(2) is unable to read or write English;

may request assistance in voting before entering the voting booth and designate a person (other than the voter's employer, an officer of the voter's union, or an agent of the voter's employer or union) to assist the voter in voting at an election, as required by 42 U.S.C. 1973aa-6.

(b) This subsection does not apply to a person designated by a voter described by subsection (a) who is voting absentee before two (2) members of the absentee voter board. The person designated must execute a sworn affidavit on a form provided by the precinct election board ~~or absentee voter board~~ stating that, to the best of the designated person's knowledge, the voter:

(1) is a voter with disabilities or is unable to read or write English; and
(2) has requested the designated person to assist the voter in voting under this section.

(c) The person designated may then accompany the voter into the voting booth and assist the voter in marking the voter's paper ballot or ballot card or in registering the voter's vote on the voting machine or electronic voting system.

SECTION 121. IC 3-11-10-16, AS AMENDED BY P.L.209-2003, SECTION 143, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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. **The judges shall mark the poll list to indicate that the voter has voted by absentee ballot.** If the voter has registered and voted under IC 3-7-36-14, the inspector shall attach to the poll list the circuit court clerk's certification that the voter has registered.

(c) If an absentee ballot is opened under this section in a precinct using voting machines, the precinct election board shall prepare certificates and memoranda under IC 3-12-2-6 that distinguish the votes cast by absentee ballots from votes cast on voting machines.

SECTION 122. IC 3-11-10-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. The vote of an absentee voter may be challenged at the polls for the reason that the absentee voter is not a legal voter of the precinct where the ballot is being cast. The ~~precinct election board may hear and determine a~~ challenge under this section ~~as though the ballot was cast by the voter in person.~~ **regarding the absentee ballot must be determined using the procedures for counting a provisional ballot under IC 3-11.7.**

SECTION 123. IC 3-11-10-24.5, AS ADDED BY P.L.209-2003, SECTION 145, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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~~ **votes** for a single office.

SECTION 124. IC 3-11-10-26, AS AMENDED BY P.L.209-2003, SECTION 147, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) As an alternative to voting by mail, a voter is entitled to cast an absentee ballot before an absentee voter board:

(1) in the office of the circuit court clerk **(or board of elections and registration in a county subject to IC 3-6-5.2);** or

(2) at a satellite office established under section 26.3 of this chapter.

(b) The voter must 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) **An absent uniformed services voter who is eligible to vote by absentee ballot in the circuit court clerk's office under IC 3-7-36-14 may vote before the board not earlier than twenty-nine (29) days before the election and not later than noon on election day. If a voter described by this subsection wishes to cast an absentee ballot during the period beginning at noon on the day before election day and ending at noon on election day, the county election board or absentee voter board may receive and process the ballot at a location designated by resolution of the county election board.**

(e) The absentee voter board in the office of the circuit court clerk must permit voters to cast absentee ballots under this section for at least seven (7) hours on each of the two (2) Saturdays preceding election day.

~~(e)~~ **(f)** Notwithstanding subsection ~~(d),~~ **(e),** in a county with a population of less than twenty thousand (20,000), the absentee voter board in the office of the circuit court clerk, with the approval of the county election board, may reduce the number of hours available to cast absentee ballots under this section to a minimum of four (4) hours on each of the two (2) Saturdays preceding election day.

~~(f)~~ **(g)** 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)~~ **(h)** As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

SECTION 125. IC 3-11-10-26.2, AS ADDED BY P.L.69-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26.2. (a) A:

(1) county election board; or

(2) board of elections and registration;

of a county subject to IC 3-11.5 may adopt a resolution to authorize the circuit court clerk to use an electronic voting system for voting by absentee ballot in the office of the circuit court clerk **or board of elections and registration.**

(b) A resolution adopted under this section must be adopted by the unanimous vote of the board's entire membership.

(c) A resolution adopted under this section must provide procedures to **do the following:**

(1) Secure absentee votes cast on an electronic voting system that provide protection comparable to the protection provided to absentee votes cast by paper ballot.

(2) Compare the signature on an absentee ballot application with the applicant's signature on the applicant's voter registration application.

(3) Ensure that an invalid ballot (as determined under IC 3-11.5) is not counted.

(d) A resolution adopted under this section may contain other provisions the board considers useful.

(e) If a resolution is adopted under this section, the circuit court clerk may use as many electronic voting machines for recording absentee votes as the clerk considers necessary, subject to the resolution adopted by the board.

(f) Notwithstanding any other law, an absentee ballot voted on an electronic voting system under this section is not required to bear the seal, signature, and initials prescribed by section 27 of this chapter.

(g) If a resolution is adopted under this section, the procedure for casting an absentee ballot on an electronic voting system must, except as provided in this section, be substantially the same as the procedure for casting an absentee ballot in the office of the circuit court clerk under section 26 of this chapter.

SECTION 126. IC 3-11-10-28, AS AMENDED BY P.L.209-2003, SECTION 148, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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.~~ **in accordance with section 4.5(d) of this chapter.**

(e) Upon accepting the completed absentee ballot from the voter, the board shall provide the voter with a notice:

(1) listing the documentation the voter may submit to the county voter registration office to comply with IC 3-7-33-4.5; and
(2) stating the address and hours of the county voter registration office.

SECTION 127. IC 3-11-10-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 36. (a) Each county election board shall appoint absentee voter boards.

(b) The absentee voter boards must consist of two (2) voters of the county, one (1) from each of the two (2) political parties that have appointed members on the county election board. If a special election is held for a local public question, the county election board may, by unanimous vote of the entire membership of the board, adopt a resolution to provide that the party membership requirement does not apply to absentee voter boards appointed to conduct the special election. A resolution adopted under this subsection may not be repealed and expires the day after the special election.

(c) An otherwise qualified person is eligible to serve on an absentee voter board unless the person:
(1) is unable to read, write, and speak the English language;
(2) has any property bet or wagered on the result of the election;
(3) is a candidate to be voted for at the election, except as an unopposed candidate for precinct committeeman or state convention delegate; or
(4) is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of a candidate or declared write-in candidate to be voted for at the election, except as an unopposed candidate. This subdivision disqualifies a person whose relationship to the candidate is the result of birth, marriage, or adoption.

(d) A person who is a candidate to be voted for at the election or who is related to a candidate in a manner that would result in disqualification under subsection (c) may, notwithstanding subsection (c), serve as a member of an absentee voter board if:
(1) the candidate is seeking nomination or election to an office in an election district that does not consist of the entire county; and
(2) the county election board restricts the duties of the person as an absentee voter board member to performing functions that could have no influence on the casting or counting of absentee ballots within the election district.

SECTION 128. IC 3-11-10-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. (a) Not later than noon ten (10) days before absentee voting begins under section 26 of this chapter, each county election board shall notify the county chairmen of the two (2) political parties that have appointed members on the county election board of the number of absentee voter boards to be appointed under section 36 of this chapter.

(b) The county chairmen shall make written recommendations for the appointments to the county election board not later than noon three (3) days before absentee voting begins under section 26 of this chapter. The county election board shall make the appointments as recommended. If a county chairman fails to make any recommendations, then the county election board may appoint any voters of the county **who comply with section 36 of this chapter.**

SECTION 129. IC 3-11-11-1.2, AS ADDED BY P.L.209-2003, SECTION 150, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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~~ **votes** for a single office on a paper ballot.

SECTION 130. IC 3-11-11-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. A voter who by accident or mistake spoils, defaces, or mutilates the voter's ballot may, by returning the ballot to the poll clerks or assistant poll clerks and satisfying them that the spoiling, defacing, or mutilation was not intentional, receive another ballot. The poll clerks or assistant poll clerks shall make a record of the fact on the poll list, and the ballot shall then be marked "VOID" by the precinct election board in the presence of the voter and returned with the other election materials as required by IC 3-10-1-31 **or IC 3-10-1-31.1.**

SECTION 131. IC 3-11-13-18, AS AMENDED BY P.L.209-2003, SECTION 156, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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. **Except as provided in subsection (e),** 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.

(e) Space for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

SECTION 132. IC 3-11-13-23, AS AMENDED BY P.L.26-2000, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) The two (2) appointed members of the county election board shall observe the test required by section 22 of this chapter and certify the test as meeting the requirements of section 22 of this chapter.

(b) A copy of the certification of the test conducted under section 22(b) of this chapter shall be ~~transmitted to the election division immediately, and another copy shall be~~ filed with the election returns.

(c) The test must be open to representatives of political parties, candidates, the media, and the public.

SECTION 133. IC 3-11-15-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. **(a)** Each application must be in writing, **sworn to or affirmed by the applicant, under the penalties of perjury,** on a form prescribed by the commission, and ~~contain~~ **must satisfy** the following ~~information:~~ **requirements:**
(1) **Provide** the name and address of the vendor submitting the application.
(2) **Provide** the telephone number of the vendor.
(3) **Provide the name, address, and telephone number of the individual representing the vendor regarding the application.**
(4) Provide the ~~type and~~ model **name and** number of the submitted voting system, **stating the hardware, firmware, and software version numbers of the system.**
(5) State whether the voting system is a direct record electronic voting system or an optical scan ballot card voting system.
~~(4)~~ **(6) Provide** a description of the voting system and its capabilities, including **the following:**
(A) Photographs.
(B) Engineering drawings. ~~and~~
(C) Technical documentation.
(D) Fail-safe and emergency backup information.
(E) Environmental requirements for storage, transportation, and operation.
~~(5)~~ **(7) Include** an agreement to pay for the total costs of the examination.
(8) Provide documentation of the escrow of the voting system's software, firmware, source codes, and executable images with an escrow agent approved by the election

division.

(9) Provide a functional description of any software components.

(10) Provide schematics or flowcharts identifying software and data file relationships.

(11) Describe the type of maintenance offered by the vendor.

(12) Provide the names, addresses, and telephone numbers of the vendor's maintenance providers.

(13) Provide a description of the training courses offered by the vendor for the voting system.

(14) Provide user manuals, operator and system manuals, and problem solving manuals.

(15) Provide a statement of the current and future interchangeability of all subcomponents of the voting system.

(16) Provide documentation from all independent testing authorities that have examined the system.

(17) Provide documentation from all election jurisdictions that have previously approved the system.

(18) Pay the application fee required under section 4 of this chapter.

(b) If an application does not include any of the applicable requirements listed in subsection (a), those requirements must be filed with the election division before the application may be considered by the commission.

SECTION 134. IC 3-11-15-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. A vendor ~~may~~ **shall** reapply to the election division for reexamination of a voting system if the commission determines that an improvement or change to a voting system requires a reexamination of that system.

SECTION 135. IC 3-11-15-49 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 49. ~~(a) This section applies to a voting system approved by the commission after July 1, 1997.~~

~~(b)~~ Before a vendor markets, **sells, leases, installs, or permits the implementation of** a voting system in Indiana, the ~~vendor shall provide for the escrow of system software and source codes in accordance with an agreement between the vendor and the election division.~~ **commission must have approved the vendor's application for the approval of the voting system.**

SECTION 136. IC 3-11-15-51 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 51. (a) This section applies to any voting system change.

(b) To implement the requirements imposed under IC 3-11-7-15 and IC 3-11-7.5-5 for a vendor or county election board to report a proposed improvement or change to a voting system to the commission and for the commission to determine if the improvement or change may be **marketed, sold, leased, installed, or** implemented, the election division shall review and recommend whether the commission should approve proposed software, **firmware,** or hardware change introduced after the system has completed qualification in accordance with this chapter.

SECTION 137. IC 3-11-15-57 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 57. (a) This section applies to a proposed change in a voting system that is not an emergency voting system change.

(b) The vendor or a county election board shall file a written request for the proposed change with the election division under IC 3-11-7-15 or IC 3-11-7.5-5. The request must include the following information:

(1) The reasons for the proposed change.

(2) The schedule for making the proposed change, if approved.

(3) A description of the files that will be changed, including directory information such as the file name and the size of the file (in bytes) both before and after the change is made.

(4) A brief summary of the changes to be made in each of the files.

(5) The name and title of each technician who will make the change.

(6) If the technician is acting for a vendor or other company, the name of the company, and the telephone number and facsimile machine number of the company.

(c) The commission may approve the proposed change after:

(1) the election division (or a competent person designated by the commission to act on behalf of the election division) reports to the commission that the vendor has tested the proposed changes on a simulated (mockup) version of the approved system; ~~and~~

(2) the vendor supplies the results of this test and makes a similar demonstration to the election division; **and**

(3) the vendor files an affidavit with the election division certifying that the proposed change has not yet been marketed, sold, leased, installed, or implemented in Indiana.

SECTION 138. IC 3-11.5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this article, "central location for counting absentee ballots" refers to a location for counting absentee ballots that a county election board ~~in a pilot county~~ must establish under ~~IC 3-11.5-1-3.~~ **this article.**

SECTION 139. IC 3-11.5-4-13, AS AMENDED BY P.L.1-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) If the absentee ballot counters find under section 11 of this chapter that any of the following applies, the ballots shall be rejected:

(1) The affidavit is insufficient or that the ballot has not been endorsed with the initials of:

(A) the two (2) members of the absentee voter board in the office of the clerk of the circuit court under IC 3-11-4-19 or IC 3-11-10-27;

(B) the two (2) members of the absentee voter board visiting the voter under IC 3-11-10-25; or

(C) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19.

(2) The signatures do not correspond or there is no signature.

(3) The absentee voter is not a qualified voter in the precinct.

(4) The absentee voter has voted in person at the election.

(5) The absentee voter has not registered.

(6) The ballot is open or has been opened and resealed. This subdivision does not permit an absentee ballot transmitted by fax to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax.

(7) The ballot envelope contains more than one (1) ballot of any kind **for the same office or public question.**

(8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate.

(9) The ballot has been challenged and not supported.

(b) **Subsection (c) applies whenever a voter with a disability is unable to make a signature:**

(1) on an absentee ballot application that corresponds to the voter's signature in the records of the county voter registration office; or

(2) on an absentee ballot security envelope that corresponds with the voter's signature:

(A) in the records of the county voter registration office; or

(B) on the absentee ballot application.

(c) The voter may request that the voter's signature or mark be attested to by any of the following:

(1) The absentee voter board under section 22 of this chapter.

(2) A member of the voter's household.

(3) An individual serving as attorney in fact for the voter.

(d) An attestation under subsection (c) provides an adequate basis for the absentee ballot counters to determine that a signature or mark complies with subsection (a)(2).

(e) If the absentee ballot counters are unable to agree on a finding described under this section or section 12 of this chapter, the county election board shall make the finding.

~~(c)~~ **(f)** The absentee ballot counters or county election board shall issue a certificate to a voter whose ballot has been rejected under this section if the voter appears in person before the board not later than 5 p.m. on election day. The certificate must state that the voter's absentee ballot has been rejected and that the voter may vote in

person under section 21 of this chapter if otherwise qualified to vote.

SECTION 140. IC 3-11.5-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) The vote of an absentee voter may be challenged at the polls for the reason that the absentee voter is not a legal voter of the precinct where the ballot is being cast.

(b) Before the inspector prepares to mark the poll list to indicate that an absentee ballot cast by the voter has been received by the county election board according to a certificate delivered to the polls under section 1 or section 8 of this chapter, the inspector shall notify the challengers and the pollbook holders that the inspector is about to mark the poll list under this section. The inspector shall provide the challengers and pollbook holders with the name and address of each voter listed in the certificate so that the voter may be challenged under this article.

(c) The ~~precinct election board may hear and determine a~~ challenge under this section ~~as though the ballot was cast by the voter in person.~~ **must be determined using the procedures for counting a provisional ballot under IC 3-11.7.**

SECTION 141. IC 3-11.5-4-22, AS AMENDED BY P.L.14-2000, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) Except as provided in subsection (b), each county election board shall appoint:

(1) absentee voter boards;
(2) teams of absentee ballot counters; and
(3) teams of couriers;

consisting of two (2) voters of the county, one (1) from each of the two (2) political parties that have appointed members on the county election board.

(b) Notwithstanding subsection (a), a county election board may appoint, by a unanimous vote of the board's members, only one (1) absentee ballot courier if the person appointed is a voter of the county.

(c) An otherwise qualified person is eligible to serve on an absentee voter board or as an absentee ballot counter or a courier unless the person:

(1) is unable to read, write, and speak the English language;
(2) has any property bet or wagered on the result of the election;
(3) is a candidate to be voted for at the election except as an unopposed candidate for precinct committeeman or state convention delegate; or
(4) is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of a candidate or declared write-in candidate to be voted for at the election except as an unopposed candidate. This subdivision disqualifies a person whose relationship to the candidate is the result of birth, marriage, or adoption.

(d) A person who is a candidate to be voted for at the election or who is related to a candidate in a manner that would result in disqualification under subsection (c) may, notwithstanding subsection (c), serve as a member of an absentee voter board if:

(1) the candidate is seeking nomination or election to an office in an election district that does not consist of the entire county; and
(2) the county election board restricts the duties of the person as an absentee voter board member to performing functions that could have no influence on the casting or counting of absentee ballots within the election district.

SECTION 142. IC 3-11.5-4-23, AS AMENDED BY P.L.38-1999, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) Not later than noon ten (10) days before absentee voting begins under IC 3-11-10-26, each county election board shall notify the county chairmen of the two (2) political parties that have appointed members on the county election board of the number of:

(1) absentee voter boards;
(2) teams of absentee ballot counters; and
(3) teams of couriers;

to be appointed under section 22 of this chapter.

(b) The county chairmen shall make written recommendations for the appointments to the county election board not later than noon three (3) days before absentee voting begins under IC 3-11-10-26. The county election board shall make the appointments as recommended.

(c) If a county chairman fails to make any recommendations, then the county election board may appoint any voters of the county **who comply with section 22 of this chapter.**

SECTION 143. IC 3-11.5-5-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. The circuit court clerk shall preserve the receptacle containing the envelope or bag in the clerk's office for the period required under IC 3-10-1-31 **or IC 3-10-1-31.1.**

SECTION 144. IC 3-11.5-5-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. When permitted under IC 3-10-1-31 **or IC 3-10-1-31.1,** the clerk and a county election board member of the opposite political party shall remove the envelope or bag from the receptacle and destroy the envelope or bag.

SECTION 145. IC 3-11.5-5-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. A county election board may contract with a state educational institution (as defined in IC 20-12-0.5-1) to dispose of the ballots. The contract must provide that:

(1) the ballots will be used by the state educational institution to conduct election research; and
(2) the state educational institution may not receive any ballots under this subsection until the period for retention under IC 3-10-1-31 **or IC 3-10-1-31.1** has expired.

SECTION 146. IC 3-11.5-6-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. The circuit court clerk shall preserve the receptacle containing the envelope or bag in the clerk's office for the period required under IC 3-10-1-31 **or IC 3-10-1-31.1.**

SECTION 147. IC 3-11.5-6-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. When permitted under IC 3-10-1-31 **or IC 3-10-1-31.1,** the clerk and a county election board member of the opposite political party shall remove the envelope or bag from the receptacle and destroy the envelope or bag.

SECTION 148. IC 3-11.5-6-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. A county election board may contract with a state educational institution (as defined in IC 20-12-0.5-1) to dispose of the ballots. The contract must provide that:

(1) the ballots will be used by the state educational institution to conduct election research; and
(2) the state educational institution may not receive any ballots under this subsection until the period for retention under IC 3-10-1-31 **or IC 3-10-1-31.1** has expired.

SECTION 149. IC 3-11.7-1-5, AS AMENDED BY P.L.209-2003, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: 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, independent candidates, and public questions.

(c) **Except as provided in subsection (e),** 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.

(e) Space for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

(f) This subsection applies to the printing of provisional ballots for a general election in which the names of the nominees for President and Vice President of the United States are to be printed on the ballot. The provisional ballots that are prepared and printed under this section must be delivered to the circuit court clerk or the clerk's authorized deputy not later than thirty-eight (38) days before the general election.

SECTION 150. IC 3-11.7-1-6, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) All provisional ballots ~~other than those described in section 5 of this chapter~~ shall be prepared and printed under the direction of each county election board.

(b) After completing the estimate required by section 4 of this chapter, the county election board shall immediately prepare the ballots and have the ballots printed.

(c) **Except as provided in subsection (e),** ballots prepared by the county election board under this section must provide space for the voter to cast a write-in ballot.

(d) The provisional ballots that are prepared and printed under this section shall be delivered to the circuit court clerk not later than:

(1) forty-five (45) days before a general, primary, or municipal election; or

(2) thirty-two (32) days before a special election.

(e) Space for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

(f) This subsection applies to the printing of provisional ballots for a general election in which the names of the nominees for President and Vice President of the United States are to be printed on the ballot. The provisional ballots that are prepared and printed under this section must be delivered to the circuit court clerk or the clerk's authorized deputy not later than thirty-eight (38) days before the general election.

SECTION 151. IC 3-11.7-3-2, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. An otherwise qualified person is eligible to serve as a counter unless the person:

(1) is unable to read, write, and speak the English language;

(2) has any property bet or wagered on the result of the election;

(3) is a candidate to be voted for at the election **in any part of the county,** except as an unopposed candidate for precinct committeeman or state convention delegate; or

(4) is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of a candidate or declared write-in candidate to be voted for at the election **in any part of the county,** except as an unopposed candidate. This subdivision disqualifies a person whose relationship to the candidate is the result of birth, marriage, or adoption.

SECTION 152. IC 3-11.7-3-5, AS AMENDED BY P.L.209-2003, SECTION 175, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 **who comply with section 2 of this chapter.**

SECTION 153. IC 3-11.7-5-1, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) After the close of the polls, provisional ballots shall be counted as provided in this chapter.

(b) **Notwithstanding IC 3-5-4-1.5 and any legal holiday observed under IC 1-1-9,** all provisional ballots must be counted by not later than noon on the Monday following the election.

SECTION 154. IC 3-11.7-5-24, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. The circuit court clerk shall preserve the receptacle containing the envelope or bag in the clerk's office for the period required under IC 3-10-1-31 **or IC 3-10-1-31.1.**

SECTION 155. IC 3-11.7-5-26, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. When permitted under IC 3-10-1-31 **or IC 3-10-1-31.1,** the clerk and a county election board member of the opposite political party shall remove the envelope or bag from the receptacle and destroy the envelope or bag.

SECTION 156. IC 3-11.7-5-27, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. A county election board may contract with a state educational institution (as defined in IC 20-12-0.5-1) to dispose of the ballots. The contract must provide that:

(1) the ballots will be used by the state educational institution to conduct election research; and

(2) the state educational institution may not receive any ballots under this section until the period for retention under IC 3-10-1-31 **or IC 3-10-1-31.1** has expired.

SECTION 157. IC 3-12-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The circuit court clerk shall preserve the receptacle containing the envelope or bag in the clerk's office for the period required under IC 3-10-1-31 **or IC 3-10-1-31.1.** However, if the election is contested, then the clerk shall preserve the receptacle containing the envelope or bag as long as the contest is undetermined. During those periods the clerk shall keep the receptacle securely locked, subject only to an order of the court trying a contest.

(b) When permitted under IC 3-10-1-31 **or IC 3-10-1-31.1,** the clerk and county election board member of the opposite political party shall remove the envelope or bag from the receptacle and destroy the envelope or bag.

(c) A county election board may contract with a state educational institution (as defined in IC 20-12-0.5-1) to dispose of ballots. The contract must provide that:

(1) the ballots will be used by the state educational institution to conduct election research; and

(2) the state educational institution may not receive any ballots under this subsection until the period for retention under IC 3-10-1-31 **or IC 3-10-1-31.1** has expired.

SECTION 158. IC 3-12-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) After the voting totals have been taken and certified by a precinct election board under section 2(c) of this chapter, the inspector shall:

(1) seal each automatic tabulating machine used in the precinct;

(2) place all ballot cards that have been counted in the container provided for that purpose; and

(3) seal the container into which the ballot cards have been placed;

in the presence of the precinct election board. The automatic tabulating machine may not be moved from the polls after the polls are closed until collected.

(b) The inspector and judge of the opposite political party shall deliver:

(1) the certification of the vote totals and one (1) copy of the certificate prepared under section 2(c) of this chapter for the circuit court clerk;

(2) the certificate of the vote totals prepared under section 2(c) of this chapter for the news media;

(3) the container in which ballot cards have been placed under subsection (a); and

(4) the unused, uncounted, and defective ballot cards and returns;

to the circuit court clerk.

(c) The inspector and judge of the opposite political party shall deliver the certificates and the list of voters to the county election board by midnight on election day. However, if:

(1) a ballot card voting system failed;

(2) the failure of the system was reported as required by this title;

(3) paper ballots were used in place of the system; and

(4) the use of the paper ballots caused a substantial delay in the vote counting process;

then the certificates, the list of voters, and the tally papers shall be

delivered as soon as possible.

(d) Upon delivery of the container to the circuit court clerk under subsection (c), the inspector shall take and subscribe an oath before the clerk stating that the inspector:

(1) closed and sealed the container in the presence of the judges and poll clerks;

(2) securely kept the ballot cards in the container;

(3) did not permit any person to open the container or to otherwise touch or tamper with the ballot cards; and

(4) has no knowledge of any other person opening the container.

(e) Each oath taken under subsection (d) shall be filed in the circuit court clerk's office with other election papers.

(f) Upon completion of the counting of the votes by a precinct election board under section 2(c) of this chapter or at a central location, all ballot cards shall be arranged by precincts and kept by the circuit court clerk for the period required by IC 3-10-1-31 **or IC 3-10-1-31.1.** The clerk shall determine the final disposition of all voted ballot cards.

SECTION 159. IC 3-12-4-13, AS AMENDED BY P.L.199-2001, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. After the county election board has tabulated the vote:

(1) the canvass sheets used by the board; and

(2) the certificates, poll lists, and tally papers returned by each inspector in the county;

shall be delivered to the circuit court clerk. The clerk shall file and preserve all the material in the clerk's office as provided in IC 3-10-1-31 **or IC 3-10-1-31.1.**

SECTION 160. IC 3-12-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Each petitioner shall furnish a cash deposit or file a bond with corporate surety to the approval of the court for the payment of all costs of the recount. The minimum amount of the cash deposit or bond is one hundred dollars ($100).

(b) This subsection applies if, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is not more than one percent (1%) **of the total votes cast for all candidates for the nomination or office.** If the number of precincts to be recounted exceeds ten (10), the amount of the deposit or bond shall be increased by ten dollars ($10) for each precinct in excess of ten (10).

(c) This subsection applies if, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is more than one percent (1%) **of the total votes cast for all candidates for the nomination or office.** If the number of precincts to be recounted exceeds ten (10), the amount of the deposit or bond shall be increased by one hundred dollars ($100) for each precinct in excess of ten (10).

(d) If a petition is joint, a joint bond may be furnished.

(e) The costs of a recount may include the following:

(1) Compensation of recount commissioners.

(2) Compensation of additional employees required to conduct the recount, including overtime payments to regular employees who are eligible to receive such payments.

(3) Postage and telephone charges directly related to the recount.

(f) The costs of a recount may not include the following:

(1) General administrative costs.

(2) Security.

(3) Allowances for meals or lodging.

(g) If the recount results in a reduction of at least fifty percent (50%) but less than one hundred percent (100%) of the margin of the total certified votes, the petitioner shall receive a refund of that percentage of the unexpended balance. If after a recount, it is determined that a petitioner has been nominated or elected, the deposit or the bond furnished by that petitioner shall be returned to that petitioner in full.

(h) Any unexpended balance remaining in a deposit after payment of all costs of the recount and the refund, if a refund is made, shall be deposited in the county general fund.

SECTION 161. IC 3-12-8-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) A contest shall be heard and determined by the court without a jury subject to the Indiana Rules of Trial Procedure.

(b) The court shall determine the issues raised by the petition and answer to the petition.

(c) After hearing and determining a petition alleging that a candidate is ineligible, the court shall declare as elected or nominated the qualified candidate who received the highest number of votes and render judgment accordingly.

(d) If the court finds that:

(1) a mistake in the printing or distribution of the ballots **used in the election;**

(2) a mistake in the programming of a voting machine or an electronic voting system; ~~or~~

(3) a malfunction of a voting machine or an electronic voting system; **or**

(4) the occurrence of a deliberate act or series of actions;

makes it impossible to determine which candidate received the highest number of votes, the court shall order that a special election be conducted under IC 3-10-8.

(e) The special election shall be conducted in the precincts identified in the petition in which the court determines that:

(1) ballots containing the printing mistake or distributed by mistake were cast;

(2) a mistake occurred in the programming of a voting machine or an electronic voting system; ~~or~~

(3) a voting machine or an electronic voting system malfunctioned; **or**

(4) the deliberate act or series of actions occurred.

SECTION 162. IC 3-12-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) The fiscal body of a political subdivision that receives notice under section 3 of this chapter shall resolve the tie vote by electing a person to fill the office ~~at its organizational meeting in January~~ **not later than December 31** following the election at which the tie vote occurred. The fiscal body shall select one (1) of the candidates who was involved in the tie vote to fill the office. **If a tie vote has occurred for the election of more than one (1) at-large seat on a legislative or fiscal body, the fiscal body shall select the number of individuals necessary to fill each of the at-large seats for which the tie vote occurred.** However, a member of a fiscal body who runs for reelection and is involved in a tie vote may not cast a vote under this section.

(b) The executive of the political subdivision (other than a town) may cast the deciding vote to break a tie vote in a fiscal body acting under this section. The clerk-treasurer of the town may cast the deciding vote to break a tie vote in a town fiscal body acting under this section.

SECTION 163. IC 3-12-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The state recount commission shall conduct recount proceedings under IC 3-12-11 resulting from:

(1) a presidential primary election;

(2) the nomination of a candidate to a federal, state, or legislative office in a primary election; or

(3) an election for a federal, state, or legislative office.

(b) The state recount commission shall conduct contest proceedings under IC 3-12-11 resulting from:

(1) a presidential primary election;

(2) the nomination of a candidate to a federal, state, or legislative office in a primary election; or

(3) an election for a **federal,** state, **or legislative** office. ~~other than governor or lieutenant governor.~~

SECTION 164. IC 3-12-10-12, AS AMENDED BY P.L.176-1999, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The expenses of a recount conducted by the state recount commission shall be paid from the state recount fund following the commission's determination of whether a full or partial refund of the cash deposit should be granted under IC 3-12-11-10.

(b) The expenses of a contest conducted by the state recount commission shall be paid from the state recount fund.

(c) **Notwithstanding subsections (a) and (b), the expenses incurred by a party to a recount or contest for:**

(1) the appearance of an individual; or

(2) the copying or production of documents;

in response to a subpoena approved by the state recount commission shall be borne by that party and are not subject to reimbursement under this chapter.

(d) A person (other than a party to a recount or contest) who claims reimbursement of expenses described by subsection (a) or (b) must submit a claim to the state recount commission not later than noon sixty (60) days after the commission adopts a final order concerning the recount or contest. If the commission approves the claim, the treasurer of state shall issue a warrant to the person in accordance with IC 5-13-5.

~~(d)~~ **(e)** There is appropriated to the state recount fund from the state general fund an amount sufficient for the state recount commission's use in the payment of expenses under this section.

SECTION 165. IC 3-12-11-10, AS AMENDED BY P.L.176-1999, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Each petitioner shall furnish a cash deposit for the payment of costs of the recount chargeable to the petitioner. The minimum amount of the cash deposit is one hundred dollars ($100). The cash deposit shall be deposited in the state recount fund.

(b) This subsection applies only to a recount of an election for nomination or election to either of the following:

(1) A legislative office in which, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is not more than one percent (1%) **of the total votes cast for all candidates for the nomination or office.**

(2) An office other than a legislative office in which, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is not more than one percent (1%) **of the total votes cast for all candidates for the nomination or office.**

If the number of precincts to be recounted exceeds ten (10), the amount of the deposit shall be increased by ten dollars ($10) for each precinct in excess of ten (10).

(c) This subsection applies only to a recount of an election for nomination or election to either of the following:

(1) A legislative office in which, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is more than one percent (1%) **of the total votes cast for the nomination or office.**

(2) An office other than a legislative office in which, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is more than one percent (1%) **of the total votes cast for the nomination or office.**

If the number of precincts to be recounted exceeds ten (10), the amount of the deposit shall be increased by one hundred dollars ($100) for each precinct in excess of ten (10).

(d) If after a recount, it is determined that a petitioner has been nominated or elected, the deposit furnished by that petitioner shall be returned to that petitioner in full.

(e) Any unexpended balance remaining in a deposit after payment of the costs of the recount shall be returned to the depositor in the following manner:

(1) If the recount results in a reduction of at least fifty percent (50%) but less than one hundred percent (100%) of the margin of the total certified votes, the petitioner shall receive a refund of that percentage of the unexpended balance.

(2) If after a recount, it is determined that a petitioner has been nominated or elected, the deposit or the bond furnished by that petitioner shall be returned to that petitioner in full.

(3) Any unexpended balance remaining after the provision of subdivision (1) has been satisfied shall be deposited in the state recount fund.

SECTION 166. IC 3-12-11-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) When a recount is completed by the state recount commission or its designee, the commission shall:

(1) make and sign a certificate showing the total number of votes received in the precincts by each candidate for nomination or election to the office;

(2) state in its certificate the candidate who received the highest number of votes in the precincts for nomination or election to the office and by what plurality; and

(3) file its certificate with the election division.

(b) When a contest proceeding in which a candidate is alleged to be ineligible is completed by the state recount commission or its designee, the commission shall make a final determination concerning the eligibility of the candidate for nomination or election to the office.

(c) If the state recount commission or its designee determines that:

(1) a mistake was made in the printing or distribution of ballots **used in the election;**

(2) a mistake was made in the programming of a voting machine or an electronic voting system;

(3) a voting machine or an electronic voting system malfunctioned; or

(4) a deliberate act or series of actions occurred;

that makes it impossible to determine which candidate received the highest number of votes cast, the commission shall order that a special election be conducted under IC 3-10-8.

(d) The special election ordered under subsection (c) shall be held in the precincts identified in the petition in which the commission determines that: ~~ballots:~~

(1) **ballots** containing the printing mistake or ~~(2)~~ distributed by mistake were cast;

(2) a mistake occurred in the programming of a voting machine or an electronic voting system;

(3) a voting machine or an electronic voting system malfunctioned; or

(4) a deliberate act or series of actions occurred.

SECTION 167. IC 3-12-11-19.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19.5. As required under 3 U.S.C. 5, any recount or contest proceeding concerning the election of presidential electors must be concluded not later than six (6) days before the ~~third Tuesday in December following the general election at which the electors were elected.~~ **time fixed by federal law for the meeting of the electors.**

SECTION 168. IC 3-13-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. The selection of a person as a candidate under this chapter is not effective unless:

(1) the person's written consent is obtained and filed:

(A) in the office in which certificates and petitions of nomination must be filed; and

(B) **not later than** when the certificate is filed; and

(2) the candidate has complied with any requirement under IC 3-8-1-33 to file a statement of economic interests.

SECTION 169. IC 3-13-7-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. (a) This section does not apply to a school board office.**

(b) This section applies to a vacancy in an elected office in a political subdivision:

(1) in which each candidate is required by statute to be placed on the ballot as a nonpartisan candidate for the office; and

(2) for which this article does not otherwise provide a method for filling.

(c) The vacancy shall be filled as follows:

(1) The remaining members of the body shall fill the vacancy by a majority of the votes of the remaining members of the body.

(2) If there are no remaining members of the body, the county executive of the county containing the greatest percentage of the population of the political subdivision shall fill the vacancy in the manner provided by section 2 of this chapter.

SECTION 170. IC 3-13-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. **(a)** A vacancy in the office of township trustee:

(1) not covered by section 1 of this chapter; **or**

(2) covered by section 1 of this chapter, but that exists after the thirtieth day after the vacancy occurs;

shall be filled by the board of commissioners of the county at a regular or special meeting.

(b) The county auditor shall give notice of the meeting, which shall be held within thirty (30) days after the vacancy occurs. The notice must:

(1) be in writing;
(2) state the purpose of the meeting;
(3) state the date, time, and place of the meeting; and
(4) be sent by first class mail to each commissioner at least ten (10) days before the meeting.

SECTION 171. IC 3-13-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. **(a)** A vacancy on the township board of a township:

(1) not covered by section 1 of this chapter; **or**
(2) covered by section 1 of this chapter, but that exists after the thirtieth day after the vacancy occurs;

shall be filled by the board of commissioners of the county at a regular or special meeting.

(b) The county auditor shall give notice of the meeting, which shall be held within thirty (30) days after the vacancy occurs. The notice must:

(1) be in writing;
(2) state the purpose of the meeting;
(3) state the date, time, and place of the meeting; and
(4) be sent by first class mail to each commissioner at least ten (10) days before the meeting.

SECTION 172. IC 3-13-11-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. **(a) This section does not apply to the office of a judge.**

(b) Subject to sections 13 through 17 of this chapter, the chief deputy employee of the office that is vacant assumes the duties of that office for the period of time between when a vacancy occurs and when the office is filled under this chapter in a **circuit,** county, city, ~~or~~ town, ~~office,~~ or ~~in the office of~~ township ~~trustee.~~ **office.**

SECTION 173. IC 3-13-11-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. **(a) This section does not apply to the office of a judge.**

(b) In accordance with section 12 of this chapter, if a chief deputy employee does not exist in a **circuit or** county office, or the chief deputy employee declines or is ineligible to serve, the board of county commissioners shall appoint, as soon as is reasonably possible, a person to assume the duties of the office until the office is filled under this chapter.

(c) If a circuit contains more than one (1) county, the boards of county commissioners of the counties shall meet in joint session at the county seat of the county that contains the greatest percentage of population of the circuit to appoint an individual under this section.

SECTION 174. IC 3-13-11-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. In accordance with section 12 of this chapter, if a chief deputy employee does not exist in the office of **clerk or** clerk-treasurer of a city or town, or the chief deputy employee declines or is ineligible to serve, the mayor of the city or the president of the town council shall appoint, as soon as is reasonably possible, a person to assume the duties of the office until the office is filled under this chapter.

SECTION 175. IC 3-13-11-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. **(a) This section does not apply to the office of a judge or a township board member.**

(b) In accordance with section 12 of this chapter, if a chief deputy employee does not exist in ~~the~~ **a township** office ~~of township trustee,~~ or the chief deputy employee declines or is ineligible to serve, the chairman of the township board assumes the duties of the township ~~trustee~~ **office** until the office is filled under this chapter.

SECTION 176. IC 3-14-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. A person not authorized by this title who recklessly:

(1) enters the polls;
(2) enters within the railing leading from the challenge window or door to the entrance of the polls without having been passed by the challengers or having been sworn in; or
(3) remains within the polls or within ~~fifty (50) feet of the entrance to~~ the ~~polls~~ **chute** in violation of IC 3-11-8-15 or IC 3-11-8-16;

commits a Class A misdemeanor.

SECTION 177. IC 3-14-3-16, AS AMENDED BY P.L.66-2003, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) As used in this section, "electioneering" includes expressing support or opposition to any candidate or political party or expressing approval or disapproval of any public question in any manner that could reasonably be expected to convey that support or opposition to another individual.

(b) A person who knowingly does any electioneering:

(1) on election day within:
(A) the polls; or
(B) ~~fifty (50) feet of the entrance to~~ the ~~polls;~~ **chute;** or
(2) within an area in the office of the circuit court clerk **or a satellite office of the circuit court clerk established under IC 3-11-10-26.3** used by an absentee voter board to permit an individual to cast an absentee ballot;

commits a Class A misdemeanor.

SECTION 178. IC 4-2-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. The salary of the elected officials of the state is as follows:

(1) For the governor, ~~the following salary:~~
~~(A) Before January 8, 2001, seventy-seven thousand two hundred dollars ($77,200) per year.~~
~~(B) After January 7, 2001,~~ ninety-five thousand dollars ($95,000) per year.
(2) For the lieutenant governor, ~~the following salary:~~
~~(A) Before January 8, 2001, sixty-four thousand dollars ($64,000) per year.~~
~~(B) After January 7, 2001,~~ seventy-six thousand dollars ($76,000) per year.
However, the lieutenant governor is not entitled to receive per diem allowance for performance of duties as president of the senate.
(3) For the secretary of state, ~~the following salary:~~
~~(A) Before January 1, 1999, forty-six thousand dollars ($46,000) per year.~~
~~(B) After December 31, 1998,~~ sixty-six thousand dollars ($66,000) per year.
(4) For the auditor of state, ~~the following salary:~~
~~(A) Before December 1, 1998, forty-six thousand dollars ($46,000) per year.~~
~~(B) After November 30, 1998,~~ sixty-six thousand dollars ($66,000) per year.
(5) For the treasurer of state, ~~the following salary:~~
~~(A) Before February 10, 1999, forty-six thousand dollars ($46,000) per year.~~
~~(B) After February 9, 1999,~~ sixty-six thousand dollars ($66,000) per year.
(6) For the attorney general, ~~the following salary:~~
~~(A) Before January 1, 1999, fifty-nine thousand two hundred dollars ($59,200) per year.~~
~~(B) After December 31, 1998,~~ seventy-nine thousand four hundred dollars ($79,400) per year.
(7) For the clerk of the supreme court, ~~the following salary:~~
~~(A) Before January 1, 1999, thirty-eight thousand dollars ($38,000) per year.~~
~~(B) After December 31, 1998,~~ **before January 1, 2007,** sixty thousand dollars ($60,000) per year.
(8) For the state superintendent of public instruction, ~~the following salary:~~
~~(A) Before January 1, 1999, sixty-three thousand one hundred dollars ($63,100) per year.~~
~~(B) After December 31, 1998,~~ seventy-nine thousand four hundred dollars ($79,400) per year.

SECTION 179. IC 4-2-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. **(a)** The bond of the auditor of state shall be fixed at one hundred thousand dollars ($100,000).

(b) The bond of the secretary of state **shall be fixed** at fifty thousand dollars ($50,000).

(c) The bond of the attorney general **shall be fixed** at fifty thousand dollars ($50,000). ~~and the clerk of the Supreme Court, at ten thousand dollars ($10,000).~~

SECTION 180. IC 4-2-6-8, AS AMENDED BY P.L.44-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The following persons shall file a written financial disclosure statement:

(1) The governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, and state superintendent of public instruction.

(2) Any candidate for one (1) of the offices in subdivision (1) who is not the holder of one (1) of those offices.

(3) Any person who is the appointing authority of an agency.

(4) The director of each division of the department of administration.

(5) Any purchasing agent within the procurement division of the department of administration.

(6) An employee required to do so by rule adopted by the commission.

(b) The statement shall be filed with the commission as follows:

(1) Not later than February 1 of every year, in the case of the state officers and employees enumerated in subsection (a).

(2) **If the individual has not previously filed under subdivision (1) during the present calendar year and is filing as a candidate for a state office listed in subsection (a)(1),** before filing a declaration of candidacy under IC 3-8-2 **or IC 3-8-4-11,** petition of nomination under IC 3-8-6, or declaration of intent to be a write-in candidate under IC 3-8-2-2.5, or before a certificate of nomination is filed under IC 3-8-7-8, in the case of a candidate for one (1) of the state offices **(unless the statement has already been filed when required under IC 3-8-4-11).**

(3) Not later than sixty (60) days after employment or taking office, unless the previous employment or office required the filing of a statement under this section.

(4) Not later than thirty (30) days after leaving employment or office, unless the subsequent employment or office requires the filing of a statement under this section.

The statement must be made under affirmation.

(c) The statement shall set forth the following information for the preceding calendar year or, in the case of a state officer or employee who leaves office or employment, the period since a previous statement was filed:

(1) The name and address of any person known:

(A) to have a business relationship with the agency of the state officer or employee or the office sought by the candidate; and

(B) from whom the state officer, candidate, or the employee, or that individual's spouse or unemancipated children received a gift or gifts having a total fair market value in excess of one hundred dollars ($100).

(2) The location of all real property in which the state officer, candidate, or the employee or that individual's spouse or unemancipated children has an equitable or legal interest either amounting to five thousand dollars ($5,000) or more or comprising ten percent (10%) of the state officer's, candidate's, or the employee's net worth or the net worth of that individual's spouse or unemancipated children. An individual's primary personal residence need not be listed, unless it also serves as income property.

(3) The names and the nature of the business of the employers of the state officer, candidate, or the employee and that individual's spouse.

(4) The following information about any sole proprietorship owned or professional practice operated by the state officer, candidate, or the employee or that individual's spouse:

(A) The name of the sole proprietorship or professional practice.

(B) The nature of the business.

(C) Whether any clients are known to have had a business relationship with the agency of the state officer or employee or the office sought by the candidate.

(D) The name of any client or customer from whom the state officer, candidate, employee, or that individual's spouse received more than thirty-three percent (33%) of the state officer's, candidate's, employee's, or that individual's spouse's nonstate income in a year.

(5) The name of any partnership of which the state officer, candidate, or the employee or that individual's spouse is a member and the nature of the partnership's business.

(6) The name of any corporation (other than a church) of which the state officer, candidate, or the employee or that individual's spouse is an officer or a director and the nature of the corporation's business.

(7) The name of any corporation in which the state officer, candidate, or the employee or that individual's spouse or unemancipated children own stock or stock options having a fair market value in excess of ten thousand dollars ($10,000). A time or demand deposit in a financial institution or insurance policy need not be listed.

(8) The name and address of the most recent former employer.

(9) Additional information that the person making the disclosure chooses to include.

Any such state officer, candidate, or employee may file an amended statement upon discovery of additional information required to be reported.

(d) A person who:

(1) fails to file a statement required by rule or this section in a timely manner; or

(2) files a deficient statement;

upon a majority vote of the commission, is subject to a civil penalty at a rate of not more than ten dollars ($10) for each day the statement remains delinquent or deficient. The maximum penalty under this subsection is one thousand dollars ($1,000).

(e) A person who intentionally or knowingly files a false statement commits a Class A infraction.

SECTION 181. IC 5-6-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The secretary of state, the auditor of state, the treasurer of state, ~~the clerk of the supreme court,~~ the sheriff of the supreme court, and every clerk of the circuit court may appoint deputies, when necessary or when required, if provision shall have been made for paying such deputies for their services from the funds of the state or of the county or from fees received for their services.

(b) Any such officer may require any deputy so appointed to give bond, in such amount as may be prescribed by law or as may be fixed by such officer, conditioned for the proper and faithful discharge of all ~~of his~~ official duties as such deputy, and for the safe accounting of all funds received by ~~him~~ **the deputy** or entrusted to ~~his~~ **the deputy's** care, control, or management.

SECTION 182. IC 5-8-3.5-1, AS AMENDED BY P.L.26-2000, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) An officer who wants to resign shall give written notice of the officer's resignation as follows:

(1) The governor and lieutenant governor shall notify the principal clerk of the house of representatives and the principal secretary of the senate to act in accordance with Article 5, Section 10 of the Constitution of the State of Indiana. The clerk and the secretary shall file a copy of the notice with the office of the secretary of state.

(2) A member of the general assembly shall notify the following, whichever applies:

(A) A member of the senate shall notify the president pro tempore of the senate.

(B) A member of the house of representatives shall notify the speaker of the house of representatives.

(3) The following officers commissioned by the governor under IC 4-3-1-5 shall notify the governor:

(A) An elector or alternate elector for President and Vice President of the United States.

(B) The secretary of state, auditor of state, treasurer of state, superintendent of public instruction, **or** attorney general. ~~or clerk of the supreme court.~~

(C) An officer elected by the general assembly, the senate, or the house of representatives.

(D) A justice of the Indiana supreme court, judge of the Indiana court of appeals, or judge of the Indiana tax court.

(E) A judge of a circuit, city, county, probate, superior, town, or township small claims court.

(F) A prosecuting attorney.
(G) A circuit court clerk.
(H) A county auditor, county recorder, county treasurer, county sheriff, county coroner, or county surveyor.

(4) An officer of a political subdivision (as defined by IC 36-1-2-13) other than an officer listed in subdivision (3) shall notify the circuit court clerk of the county containing the largest percentage of population of the political subdivision.

(5) An officer not listed in subdivisions (1) through (4) shall notify the person or entity from whom the officer received the officer's appointment.

(b) A person or an entity that receives notice of a resignation and does not have the power to fill the vacancy created by the resignation shall, not later than seventy-two (72) hours after receipt of the notice of resignation, give notice of the vacancy to the person or entity that has the power to:

(1) fill the vacancy; or
(2) call a caucus for the purpose of filling the vacancy.

SECTION 183. IC 5-14-3-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3.5. (a) As used in this section, "state agency" has the meaning set forth in IC 4-13-1-1. The term does not include the office of the following elected state officials:

(1) Secretary of state.
(2) Auditor.
(3) Treasurer.
(4) Attorney general.
(5) Superintendent of public instruction.
~~(6) Clerk of the Supreme Court.~~

However, each state office described in subdivisions (1) through ~~(6)~~ **(5) and the judicial department of state government** may use the computer gateway administered by the intelenet commission established under IC 5-21-2, subject to the requirements of this section.

(b) As an additional means of inspecting and copying public records, a state agency may provide enhanced access to public records maintained by the state agency.

(c) If the state agency has entered into a contract with a third party under which the state agency provides enhanced access to the person through the third party's computer gateway or otherwise, all of the following apply to the contract:

(1) The contract between the state agency and the third party must provide for the protection of public records in accordance with subsection (d).

(2) The contract between the state agency and the third party may provide for the payment of a reasonable fee to the state agency by either:
(A) the third party; or
(B) the person.

(d) A contract required by this section must provide that the person and the third party will not engage in the following:

(1) Unauthorized enhanced access to public records.
(2) Unauthorized alteration of public records.
(3) Disclosure of confidential public records.

(e) A state agency shall provide enhanced access to public records only through the computer gateway administered by the intelenet commission established under IC 5-21-2, except as permitted by the data process oversight commission established under IC 4-23-16-1.

SECTION 184. IC 6-1.1-19-4.5, AS AMENDED BY P.L.66-2003, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: 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) 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 **all** the **registered voters who are** 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. **If a primary election, general election, or special election is held during the sixty (60) days preceding or following the special election described in this subdivision and is held in an election district that includes some, but not all, of the school corporation, the county election board may also adopt orders to specify when the registration period for the elections cease and resume under IC 3-7-13-10.** Not less than ten (10) days before the date on which the referendum is to be held, the county election board shall cause notice of the question that is to be voted upon at the referendum to be published in accordance with IC 5-3-1. If the referendum is not conducted at a primary or general election, the appellant school corporation in which the referendum is to be held shall pay all of the costs of holding the referendum.

(4) 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) The individuals entitled to vote in the referendum are all of the registered voters resident in the appellant school corporation.

(6) 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.

SECTION 185. IC 9-14-3-5, AS AMENDED BY P.L.261-2003, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (b), ~~(c), or~~ (d), **or (e),** the bureau shall prepare and deliver information on titles, registrations, and licenses and permits upon the request of any person. All requests must be submitted in writing to the bureau and, unless exempted under IC 9-29, must be accompanied by the payment of the fee prescribed in IC 9-29-2-2.

(b) The bureau shall not disclose:

(1) the Social Security number;
(2) the federal identification number;
(3) the driver's license number;
(4) the digital image of the driver's license applicant;
(5) a reproduction of the signature secured under IC 9-24-9-1 or IC 9-24-16-3; or
(6) medical or disability information;

of any person except **as provided in subsection (c).**

(c) The bureau may disclose any information listed in subsection (b):

(1) to a law enforcement officer; ~~or~~

(2) to an agent or a designee of the department of state revenue; ~~or~~

(3) for uses permitted under IC 9-14-3.5-10(1), IC 9-14-3.5-10(4), IC 9-14-3.5-10(6), and IC 9-14-3.5-10(9); **or**

(4) for voter registration and election purposes required under IC 3-7 or IC 9-24-2.5.

~~(c)~~ **(d)** As provided under 42 U.S.C. 1973gg-3(b), the commission may not disclose any information concerning the failure of an applicant for a motor vehicle driver's license to sign a voter registration application, except as authorized under IC 3-7-14.

~~(d)~~ **(e)** The commission may not disclose any information concerning the failure of an applicant for a title, registration, license, or permit (other than a motor vehicle license described under

subsection ~~(c))~~ **(d))** to sign a voter registration application, except as authorized under IC 3-7-14.

SECTION 186. IC 9-24-1-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 1.5. (a) This section applies after December 31, 2005.**

(b) The standards set forth in IC 3-5-5 to determine the residence of an individual applying to become a voter apply to the determination of the residence of an individual applying for a license under this article.

(c) This section does not prevent the commission from issuing a license under this article to an individual who is:

(1) not required by this article to reside in Indiana to receive the license; and

(2) otherwise qualified to receive the license.

SECTION 187. IC 20-4-8-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) Members of the metropolitan board of education shall be elected by the registered voters of the metropolitan school district at the primary elections held biennially in the state commencing with the next primary election which is held more than sixty (60) days after the creation of the metropolitan school district as provided ~~herein.~~ **in this chapter.** Nominations for each member of the board of education shall be made by a petition signed by the nominee and by ten (10) registered voters residing in the same board member district as the nominee. Such petition shall be filed not earlier than the date on which a petition of nomination may first be filed under IC 3-8-6-10 and not later than noon on the last date provided by IC 3-8-2-4 for the filing of a declaration of candidacy for the primary election with the clerk of the circuit court in each county in which such metropolitan school district is located.

(b) Nominees for school board members shall be listed on the primary election ballot in the form prescribed by IC 3-10-1-19, by board member districts without party designation. Such ballot shall state ~~thereon~~ the number of board members to be voted upon and the maximum number which may be elected from each board member district in compliance with section 15 of this chapter. No ballot shall be valid where more than such maximum number are voted upon from any such board member district. The election boards in the various precincts and in the county or counties serving at each primary election shall conduct the election for school board members. Each registered voter may vote in such school board election without otherwise voting in the primary election.

(c) Voting and tabulation of votes shall be conducted in the same manner as voting and tabulation in primary elections are conducted, and the candidates having the greatest number of votes shall be elected. If more than the maximum number which may be elected from any board member district as provided in section 15 of this chapter are among those having the greatest number of votes, the lowest of those candidates from such board member district in excess of such maximum number shall be eliminated in determining the candidates who are elected. In the event of a tie vote for any of said candidates, the judge of the circuit court in the county where the majority of the registered voters of the metropolitan school district reside shall select one (1) of said candidates who shall be declared and certified elected.

(d) If at any time after the first board member election there shall occur a vacancy on the board for any reason including ~~but not limited to~~ the failure of the sufficient number of petitions for candidates being filed, and whether the vacating member was elected or appointed, the remaining members of the metropolitan board of education, whether or not a majority of the board, shall by a majority vote fill such vacancy by appointing a person from the board member district from which the person who vacated the board membership was elected, or if such person was appointed, the board member district from which the last elected predecessor of such person was elected. In the event of a tie vote among the remaining members of the board or their failure to act within thirty (30) days after any such vacancy occurs, it shall be the duty of the judge of the circuit court in the county where the majority of registered voters of the metropolitan school district reside to make such appointment. A successor to such appointive board member shall be elected at the next primary election which is held more than sixty (60) days after any elected board member vacates membership on the board; or at the primary election held immediately prior to the end of the term for which such vacating member was elected, whichever is sooner. Unless such successor takes office at the end of the term of such vacating member, the member shall serve only for the balance of such term. In any election of a successor board member to fill a vacancy for a two (2) year balance of a term, nominating petitions for school board membership candidacy need not be filed for or with reference to the vacancy. **However, as required by IC 3-11-2-14.5, candidates for at-large seats shall be distinguished on the ballot from candidates for district seats. If there is more than one (1) at- large seat on the ballot due to this vacancy,** the elected candidate who receives the lowest number of votes at the election at which such successor is elected shall serve for such two (2) year term.

(e) At the first primary election wherein members of the metropolitan board of education shall be elected under this section, a simple majority of the elected candidates, consisting of those elected candidates who receive the highest number of votes, shall be elected for four (4) year terms and the balance of the elected candidates, consisting of those who received the lowest number of votes, shall be elected for two (2) year terms. All candidates for membership on the metropolitan board of education shall be voted upon by the voters of the entire district, shall be elected for four (4) year terms after the first election and shall take office and assume their duties July 1 following their election.

SECTION 188. IC 33-15-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) **The chief justice of the supreme court shall appoint** a clerk of the supreme court. ~~shall be elected under IC 3-10-2-7 by the voters of the state. The term of office of the clerk is four (4) years, beginning January 1 following the individual's election.~~ **The individual appointed serves at the pleasure of the chief justice of the supreme court.**

(b) The clerk shall execute a bond in ~~the sum of two thousand dollars ($2,000).~~ **an amount directed by the supreme court.**

(c) The clerk shall be paid a salary determined by the supreme court.

(d) In addition to the powers and duties prescribed by law, the clerk has the powers and duties determined by the supreme court.

SECTION 189. IC 33-15-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. ~~Such~~ **The** clerk ~~at the expiration of his term,~~ shall hand over to ~~his~~ **the clerk's** successor all the books and papers of ~~his~~ **the** office.

SECTION 190. IC 33-24-4-1, AS ADDED BY SEA 263-2004, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) **The chief justice of the supreme court shall appoint** a clerk of the supreme court. ~~shall be elected under IC 3-10-2-7 by the voters of the state. The term of office of the clerk is four (4) years, beginning January 1 following the individual's election.~~ **The individual appointed serves at the pleasure of the chief justice of the supreme court.**

(b) The clerk shall execute a bond in ~~the sum of two thousand dollars ($2,000).~~ **an amount directed by the supreme court.**

(c) The clerk shall be paid a salary determined by the supreme court.

(d) In addition to the powers and duties prescribed by law, the clerk has the powers and duties determined by the supreme court.

SECTION 191. IC 33-24-4-7, AS ADDED BY SEA 263-2004, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. ~~At the expiration of the term of office of~~ The clerk of the supreme court ~~the clerk~~ shall deliver to the clerk's successor all the books and papers of the clerk's office.

SECTION 192. IC 36-2-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) To be eligible for election to the executive, a person must meet the qualifications prescribed by IC 3-8-1-21.

(b) A member of the executive must reside within:

(1) the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana; and

(2) the district from which the member was elected.

(c) If the person does not remain a resident of the county and district after taking office, the person forfeits the office. The county fiscal body shall declare the office vacant whenever a member of the executive forfeits office under this subsection.

(d) In a county having a population of:

(1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(2) more than two hundred thousand (200,000) but less than three hundred thousand (300,000);

one (1) member of the executive shall be elected by the voters of each of the three (3) single-member districts established under section 4(b) or 4(c) of this chapter. In other counties, all three (3) members of the executive shall be elected by the voters of the whole county.

~~(c) A member of the executive who wants to resign must send written notice to the president of the county fiscal body. The fiscal body shall then declare the member's office vacant.~~

SECTION 193. IC 36-2-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A deputy appointed under this chapter may be required to give a bond, in accordance with IC 5-4-1, for the proper discharge of ~~his~~ **the deputy's** duties. ~~as a deputy.~~

(b) **If required under IC 5-4-1-1,** a deputy appointed under this chapter shall take the oath required of the officer who appointed ~~him.~~ **the deputy.**

SECTION 194. IC 3-10-1-14 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 195. IC 3-8-1-11.5 IS REPEALED [EFFECTIVE JULY 1, 2004].

SECTION 196. THE FOLLOWING ARE REPEALED [EFFECTIVE DECEMBER 1, 2004]: IC 3-11-2-1; IC 3-11.7-1-5.

SECTION 197. [EFFECTIVE JULY 1, 2004] **(a) This section applies to a referendum conducted under IC 6-1.1-19-4.5 at a primary or general election.**

(b) Notwithstanding IC 6-1.1-19-4.5(c)(6), if a majority of the persons who voted in the referendum did not vote "yes" on the referendum question, another referendum under IC 6-1.1-19-4.5 may not be held before the earlier of:

(1) the next primary election or general election that occurs at least eleven (11) months after the date of the referendum; or

(2) one (1) year after the date of the referendum.

(c) This SECTION expires June 30, 2006.

SECTION 198. [EFFECTIVE JULY 1, 2004] **(a) Notwithstanding IC 33-15-1-1 or IC 33-24-4-1, both as amended by this act, an individual who is appointed by the governor to fill a vacancy in the office of clerk of the supreme court is entitled to hold the office before January 1, 2007, unless the individual resigns or is removed from office as provided by law.**

(b) Notwithstanding the repeal of IC 3-8-1-11.5 by this act, an individual appointed by the governor to the office of clerk of the supreme court must satisfy the requirements of IC 3-8-1-11.5 before its repeal.

(c) An individual appointed by the governor to the office of clerk of the supreme court must execute a bond in the amount of ten thousand dollars ($10,000).

(d) Notwithstanding IC 5-6-1-1, as amended by this act, the clerk of the supreme court may appoint deputies and require the individuals appointed as deputies to post bond as provided by law in effect at the time any appointment is made.

(e) Notwithstanding IC 5-8-3.5-1, as amended by this act, an individual who wants to resign the office of clerk of the supreme court must resign as provided by law in effect at the time the individual wants to resign the office.

(f) Notwithstanding IC 5-14-3-3.5, as amended by this act:

(1) "state agency" does not include the office of the clerk of the supreme court; and

(2) the clerk of the supreme court may use the computer gateway administered by the intelenet commission established under IC 5-21-2, subject to the requirements of IC 5-14-3-3.5, as in effect after June 30, 2004.

(g) This SECTION expires January 1, 2007.

SECTION 199. P.L.209-2003, SECTION 205, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 7, 2003 (RETROACTIVE)]: SECTION 205. (a) The definitions in IC 3-5-2 apply throughout this SECTION.

(b) Not later than ~~July 1,~~ **December 31,** 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 200. P.L.209-2003, SECTION 214, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 214. (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) **Notwithstanding any other statute, a voting machine system or a punch card voting system may not be marketed in Indiana.**

(g) Notwithstanding IC 3-11-5, IC 3-11-7, IC 3-11-7.5, and IC 3-11-15, the approval or certification of a voting system issued before January 1, 2005, expires October 1, 2005. If a vendor applied for certification of the voting system after January 1, 2004, and applies for recertification of the voting system after January 1, 2005, the application fee under IC 3-11-15-4 is waived if the hardware, software, and firmware of the system is unchanged in the system submitted for recertification under this subsection.

(h) This SECTION expires January 1, 2006.

SECTION 201. [EFFECTIVE UPON PASSAGE] **(a) The definitions set forth in IC 3-5-2 apply throughout this SECTION.**

(b) Notwithstanding P.L.209-2003, SECTION 212 (expired December 31, 2003), the governor's notice before May 1, 2003, to 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 is legalized.

(c) Notwithstanding P.L.209-2003, SECTION 213 (expired December 31, 2003), the governor's notice before May 1, 2003, 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 is legalized.

(d) Notwithstanding P.L.209-2003, SECTION 216 (expired December 31, 2003), not later than July 1, 2004, 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 certifying that the state is in compliance with the requirements referred to in Section 253(b) of HAVA (42 U.S.C. 15403). The statement must be in the form authorized by Section 253 of HAVA.

(e) This SECTION expires July 1, 2005.

SECTION 202. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **(a) This SECTION applies to an individual:**

(1) who was elected during November 2003 to an office of a political subdivision; and

(2) to whom IC 5-4-1-1.2 applies.

(b) Notwithstanding the time limits under IC 5-4-1-1.2(c), an individual's deposit before March 1, 2004, of the oath required by IC 5-4-1-1 with the office listed in IC 5-4-1-4 is legalized, and

IC 5-4-1-1.2(d) does not apply.

(c) This SECTION expires July 1, 2004.

SECTION 203. [EFFECTIVE JULY 1, 2004] **(a) Notwithstanding IC 3-11.7-1-6, as amended by this act, all provisional ballots other than those described in IC 3-11.7-1-5 shall be prepared and printed under the direction of each county election board.**

(b) This SECTION expires December 1, 2004.

SECTION 204. **An emergency is declared for this act.**

(Reference is to ESB 72 as reprinted February 17, 2004.)

LANDSKE	MAHERN
BREAUX	RICHARDSON
Senate Conferees	House Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1254–2; filed March 4, 2004, at 5:59 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 1254 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 9-13-2-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 1.1. "Act", for purposes of IC 9-24-6.5, has the meaning set forth in IC 9-24-6.5-1.**

SECTION 2. IC 9-13-2-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 1.5. "Administration", for purposes of IC 9-24-6.5, has the meaning set forth in IC 9-24-6.5-2.**

SECTION 3. IC 9-13-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. "Approved motorcycle driver education and training course" means:

(1) a course offered by a public or private secondary school, **a new motorcycle dealer,** or other driver education school offering motorcycle driver training as developed and approved by the superintendent of public instruction and the bureau; or

(2) a course that is offered by a commercial driving school or new motorcycle dealer and that is approved by the bureau.

SECTION 4. IC 9-24-6-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 11.5. (a) This section applies if the United States Department of Homeland Security, Transportation Security Administration adopts regulations concerning disqualifying offenses.**

(b) The bureau shall revoke the hazardous materials endorsement of a driver who:

(1) receives a judgment or conviction for a disqualifying offense (as defined in the regulations described in subsection (a)) immediately upon receiving notice of the judgment or conviction; or

(2) is determined by the United States Department of Homeland Security, Transportation Security Administration to be a potential security threat;

and shall give notice to the driver that the endorsement has been revoked and of the procedure by which the driver may appeal the revocation.

(c) The revocation of the hazardous material endorsement of a driver revocation under subsection (b) is for the period set forth under the regulations described in subsection (a).

SECTION 5. IC 9-24-6-12, AS AMENDED BY P.L.123-2002, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) A driver who:

(1) is:

(A) convicted of an offense described in section 8(1) through 8(4) or 8(6) of this chapter; or

(B) found to have violated section 8(7) of this chapter; and

(2) has been previously convicted in a separate incident of any offense described in section 8(1) through 8(4) or 8(6) of this chapter;

is disqualified for life from driving a commercial motor vehicle.

(b) A driver who applies for a hazardous materials endorsement and has been convicted of:

(1) a felony under Indiana law that results in serious bodily injury or death to another person; or

(2) a crime in any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a felony described in subdivision (1);

is disqualified for life from holding a hazardous materials endorsement.

(c) The hazardous materials endorsement of a driver who holds a hazardous materials endorsement and is convicted of a:

(1) felony under Indiana law that results in serious bodily injury or death to another person; or

(2) crime in any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a felony described in subdivision (1);

is revoked upon conviction, and the driver is disqualified for life from holding a hazardous materials endorsement.

(d) The hazardous materials endorsement of a driver may be revoked and the driver may be disqualified from holding a hazardous materials endorsement if the revocation and disqualification are required under regulations adopted by the United States Department of Homeland Security, Transportation Security Administration.

SECTION 6. IC 9-24-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 6.5. Hazardous Material Endorsement Application and Renewal

Sec. 1. As used in this chapter, "act" refers to the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act, Pub. L. 107-56, 115 Stat. 272 (2001).

Sec. 2. As used in this chapter, "administration" refers to the United States Department of Homeland Security, Transportation Security Administration.

Sec. 3. The bureau may adopt rules and policies necessary to fully implement the requirements of the act and the regulations adopted to implement the act.

Sec. 4. The bureau shall forward the information provided by an applicant for a hazardous material endorsement to the administration or another agency designated to receive the information if the bureau is required to forward the information under regulations adopted to implement the act.

Sec. 5. The bureau may:

(1) determine the cost to the state of procedures required to comply with regulations adopted to implement the act; and

(2) charge a fee to applicants that is sufficient to offset the cost determined under subdivision (1).

Sec. 6. (a) The hazardous materials endorsement of a driver who applies for renewal of the endorsement may remain valid after the date on which the endorsement would otherwise expire if both of the following conditions are met:

(1) The application for renewal was received by the bureau at least ninety (90) days before the date on which the endorsement expires.

(2) On the date on which the endorsement expires, the bureau has not yet received the results of a background check conducted by the administration or another agency designated to conduct the background check.

(b) Except as provided in subsection (c), an extension under subsection (a) is valid for ninety (90) days after the date on which the endorsement would otherwise expire.

(c) Notwithstanding subsection (b), if the bureau receives information from the administration or another agency designated to conduct a background check that requires the bureau to revoke the hazardous materials endorsement of a driver, the bureau shall revoke the endorsement immediately upon receipt of the information.

(d) An extension under subsection (a) may be renewed until:
(1) the bureau receives the results of a background check conducted by the administration or another agency designated to conduct the background check; or
(2) further extensions are barred under regulations adopted to implement the act.

Sec. 7. An applicant whose application for a hazardous materials endorsement is denied or whose hazardous materials endorsement is revoked under IC 9-24-6-11.5 may appeal the denial or revocation under IC 4-21.5 or, if other procedures are adopted by the administration or another agency of the United States, under the other procedures.

SECTION 7. IC 9-24-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. A learner's permit authorizes the permit holder to operate a motor vehicle, except a motorcycle, upon a public highway under the following conditions:

(1) While the holder is participating in practice driving in an approved driver education course and is accompanied by a certified driver education instructor in the front seat of an automobile equipped with dual controls.

(2) If the learner's permit has been validated and the holder is less than eighteen (18) years of age, the holder may participate in practice driving if the seat beside the holder is occupied by a guardian, **stepparent,** or relative of the holder who holds a valid operator's, chauffeur's, or public passenger chauffeur's license.

(3) If the learner's permit has been validated and the holder is at least eighteen (18) years of age, the holder may participate in practice driving if accompanied in the vehicle by an individual who holds a valid operator's, chauffeur's, or public passenger chauffeur's license.

(4) While:

(A) the holder is enrolled in an approved driver education course;

(B) the holder is participating in practice driving after having commenced an approved driver education course; and

(C) the seat beside the holder is occupied by a parent, **stepparent,** or guardian of the holder who holds a valid operator's, chauffeur's, or public passenger chauffeur's license.

SECTION 8. IC 9-27-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) To establish or operate a commercial driver training school, the school must obtain a license from the bureau in the manner and form prescribed by the bureau.

(b) **Subject to subsection (c),** the bureau shall adopt rules under IC 4-22-2 that state the requirements for obtaining a school license, including the following:

(1) Location of the school.
(2) Equipment required.
(3) Courses of instruction.
(4) Instructors.
(5) Previous records of the school and instructors.
(6) Financial statements.
(7) Schedule of fees and charges.
(8) Character and reputation of the operators and instructors.
(9) Insurance in the amount and with the provisions the bureau considers necessary to adequately protect the interests of the public.
(10) Other matters the bureau prescribes for the protection of the public.

(c) The rules adopted under subsection (b) must permit a licensed school to conduct classroom training in a county outside the county where the school is located to the students of:
(1) a school corporation (as defined in IC 36-1-2-17);
(2) a nonpublic secondary school that voluntarily becomes accredited under IC 20-1-1-6; or
(3) a nonpublic secondary school recognized under IC 20-1-1-6.2;
if the governing body of the school corporation or the nonpublic secondary school approves the delivery of the training to its students.

SECTION 9. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 9-27-4-4, as amended by this act, the bureau of motor vehicles shall carry out the duties imposed upon it under IC 9-27-4-4, as amended by this act, under interim written guidelines approved by the commissioner of the bureau of motor vehicles.**
(b) This SECTION expires on the earlier of the following:
(1) The date rules are adopted under IC 9-27-4-4, as amended by this act.
(2) December 31, 2004.

SECTION 10. **An emergency is declared for this act.**

(Reference is to EHB 1254 as printed February 20, 2004.)

ROBERTSON	MERRITT
BURTON	R. YOUNG
House Conferees	Senate Conferees

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

RESOLUTIONS ON FIRST READING

House Resolution 83

Representatives Richardson and Denbo introduced House Resolution 83:

A HOUSE RESOLUTION honoring Representative Richard Mangus upon his retirement from a distinguished career of thirty-two years of service to the people of Indiana, particularly his constituents in District 21.

Whereas, A young man named Richard Mangus served his country in the U. S. Army, married his sweetheart, Mary, raised five wonderful children, owned and operated a successful dairy farm, and then decided in 1972 to run for the office of state legislator;

Whereas, Since his successful election in 1972, Representative Mangus has won an additional fifteen elections, signifying the immense respect, admiration, and confidence his constituents have in his dedication to their needs;

Whereas, The people of St. Joseph and Elkhart counties, and certainly those of his hometown Lakeville, know of Representative Mangus's fiery spirit, his flare for drama and his plain-spoken wisdom;

Whereas, What they may not know is his enthusiasm in serving them has led to a small newspaper fire, donning a powdered wig and spectacles and other legendary antics that have made him a favorite in and around the State House;

Whereas, Freshman legislators were often told that Representative Mangus did not say much, but when he did speak, it was important and they better listen!;

Whereas, During his sixteen terms in office, Representative Mangus has been honored as Fraternal Order of Police Legislator of the Year, Professional Firefighters Legislator of the Year, District Soil and Water Conservation Special Recognition Award for Support of District Programming, 4-H Leadership Twenty-year Service Award, Izaak Walton League Environmental Achievement Award, Sagamore of the Wabash Award, and the Junior Chamber of Commerce Outstanding Citizen of the Year Award;

Whereas, Representative Mangus has had a leadership role on many committees, including Agriculture, Natural Resources and Rural Development; Appointments and Claims; Elections and Apportionment; and Environmental Affairs;

Whereas, Representative Mangus' legislative contributions are too numerous to name, but he leaves his district and his constituents in a better place for his hard work, dedicated effort, and unquestioned legislative knowledge;

Whereas, Representative Mangus also served his community as a member of County Line Brethren Church, Indiana Farm Bureau, Lakeville Lions Club, Lakeville Lodge of Free and Accepted Masons, Scottish Rite, Lakeville Commerce Association, and Order of the Eastern Star; and

Whereas, Representative Mangus will be greatly missed by his colleagues in the Indiana House of Representatives for his many contributions and his love of the legislative process: Therefore,

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

SECTION 1. That the Indiana House of Representatives honors Representative Richard Mangus for his thirty-two years of distinguished service to the people of Indiana, particularly District 21, upon his retirement.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Representative Richard Mangus.

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

CONFERENCE COMMITTEE REPORTS AND RULES SUSPENSIONS

Engrossed House Bill 1365–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1365–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that House Rule 162.2 be suspended so that the conference committee report for Engrossed House Bill 1365–1 may be laid over on the members' desks for 1 hour, so that the conference committee report for Engrossed House Bill 1365–1 may be eligible to be placed before the House for action.

PELATH

Motion prevailed.

The conference committee report was reread. Roll Call 289: yeas 95, nays 0. Report adopted.

Engrossed House Bill 1151–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1151–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that House Rule 162.2 be suspended so that the conference committee report for Engrossed House Bill 1151–1 may be laid over on the members' desks for 1 hour, so that the conference committee report for Engrossed House Bill 1151–1 may be eligible to be placed before the House for action.

PELATH

Motion prevailed.

The conference committee report was reread. Representative Reske was excused from voting. Roll Call 290: yeas 92, nays 1. Report adopted.

RESOLUTIONS ON FIRST READING

House Resolution 84

Representatives Richardson and Denbo introduced House Resolution 84:

A HOUSE RESOLUTION honoring Dean Young upon his retirement and recognizing his distinguished service to the people of District 31 and the state of Indiana during his twelve-year tenure in the House of Representatives.

Whereas, Representative Young graduated from Blackford County High School in 1973, from Purdue University in 1977 with a Bachelor of Arts in Political Science, and from Valparaiso University School of Law in 1981;

Whereas, This gallant young man began his private law practice in 1981 and still continues it today in Hartford City, Indiana;

Whereas, Representative Young began serving his community as Chief Deputy Prosecuting Attorney of Blackford County in 1983 until his election as Prosecuting Attorney in 1987, where he remained until 1992;

Whereas, Representative Young has faithfully served in the Indiana General Assembly for twelve years, having been elected to represent District 31 in the House of Representatives in 1992;

Whereas, Representative Young served the residents of House District 31, which includes Blackford County and parts of Grant County, with dedication.

Whereas, Representative Young is known for his special attention to the elder citizens of House District 31, as his custom is to honor those who celebrate their 100th birthday and those couples who celebrate their 50th anniversary with certificates;

Whereas, Representative Young was the one member of the House of Representatives who fully understood Workman's Compensation issues as evidenced by the numerous times he was called forward to explain the intricate details of legislation during debate on this topic;

Whereas, Representative Young championed representative democracy during his service in the General Assembly by adamantly supporting the wishes of his constituents;

Whereas, Representative Young understood the need for promoting access to state government and always welcomed individuals from his community to the State House;

Whereas, Representative Young gained the respect of his colleagues many times over as he led the fight for doing the right thing;

Whereas, Representative Dean Young will forever be remembered in the State House halls for his impassioned, inspirational speeches on legislative issues, which, at times, were able to sway minds upon the voting hour;

Whereas, In addition to Dean Young's exceptional service to the state and his community, he has always made his family his priority;

Whereas, During his tenure as State Representative, Dean and his wife, Liz, raised two sons: Jason, who is now serving his country in the Armed Forces, and David, who is preparing for undergraduate studies;

Whereas, There is no doubt in our minds that Representative Young is truly a man of honor and integrity, and we can be thankful for his years of service in the House of Representatives; and

Whereas, Representative Dean Young will be missed by his colleagues and staff in the Indiana General Assembly: 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 honors Representative Dean Young for his distinguished service to the people of Indiana, particularly his constituents in District 31, upon his retirement.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Representative Dean Young.

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

CONFERENCE COMMITTEE REPORTS AND RULES SUSPENSIONS

Engrossed Senate Bill 72–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 72–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that House Rule 162.2 be suspended so that the conference committee report for Engrossed Senate Bill 72–1 may be laid over on the members' desks for 1 hour, so that the conference committee report for Engrossed Senate Bill 72–1 may be eligible to be placed before the House for action.

PELATH

Motion prevailed.

The conference committee report was reread. Roll Call 291: yeas 94, nays 0. Report adopted.

Engrossed House Bill 1254–2

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1254–2.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that House Rule 162.2 be suspended so that the conference committee report for Engrossed House Bill 1254–2 may be laid over on the members' desks for 1 hour, so that the conference committee report for Engrossed House Bill 1254–2 may be eligible to be placed before the House for action.

PELATH

Motion prevailed.

The conference committee report was reread. Roll Call 292: yeas 94, nays 0. Report adopted.

Engrossed House Bill 1055–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hour, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1055–1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that House Rule 162.2 be suspended so that the conference committee report for Engrossed House Bill 1055–1 may be laid over on the members' desks for 1 hour, so that the conference committee report for Engrossed House Bill 1055–1 may be eligible to be placed before the House for action.

PELATH

Motion prevailed.

The conference committee report was reread. Roll Call 293: yeas 94, nays 0. Report adopted.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 10:40 p.m. with the Speaker in the Chair.

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 accepted and approved the Joint Rule 20 correction on Engrossed House Bills 1062 and 1285.

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 Bill 41.

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 1005–1, 1194–1, 1229–1, 1320–2, and 1350–1.

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 Bill 1017–1 and 1273–1.

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 1019–1, 1050–1, 1055–1, 1254–2, 1365–1, and 1401–1.

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 1207–1, 1251–1, 1264–1, 1266–1, 1300–1, 1434–1, 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 Senate Bill 72–1.

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 passed House Concurrent Resolution 45 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 Resolution 45 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

HOUSE MOTION

Mr. Speaker: I move that Representative Thomas be added as coauthor of House Bill 1050.

HINKLE

Motion prevailed.

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the concurrence on Engrossed House Bill 1044, Roll Call 263, on March 4, 2004. In support of this petition, I submit the following reason:

"I was present, but when I attempted to vote, the voting machine did not register my vote. I intended to vote yea."

MAYS

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: the final vote tally for the concurrence on Engrossed House Bill 1044 is 58 yeas, 36 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 1207, Roll Call 279, on March 4, 2004. 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."

NOE

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 1207 is 77 yeas, 10 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 1320, Roll Call 288, on March 4, 2004. 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."

MESSER

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 1320 is 93 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 1401, Roll Call 273, on March 4, 2004. In support of this petition, I submit the following reason:

"I inadvertently voted yea when I wished to be excused."

OXLEY

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 1 on Engrossed House Bill 1401, Roll Call 273, on March 4, 2004. In support of this petition, I submit the following reason:

"I inadvertently voted yea when I wished to be excused."

ROBERTSON

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: adoption of the motions of Representatives Oxley and Robertson changes the final vote tally for conference committee report 1 on Engrossed House Bill 1401 to 63 yeas, 25 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the passage of Senate Enrolled Act 337 (2003), the Governor's veto notwithstanding, Roll Call 264, on March 4, 2004. In support of this petition, I submit the following reason:

"I was present, but when I attempted to vote, the voting machine did not register my vote. I intended to vote yea."

MAYS

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: the final vote tally on the passage of Senate Enrolled Act 337 (2003) is 88 yeas, 6 nays.*]

RESOLUTIONS ON FIRST READING

House Resolution 85

Representatives Richardson and Denbo introduced House Resolution 85:

A HOUSE RESOLUTION honoring Sue Scholer for her dedication and service to the people of Indiana, particularly District 26, upon her retirement from the Indiana General Assembly.

Whereas, Representative Sue Scholer started her career in public service as a Wabash Township Assessor and then as Tippecanoe County Commissioner until 1990;

Whereas, Representative Scholer was elected Tippecanoe County Commissioner at a time when women were not so common in the political realm and, in fact, her election to this office landed her story in one of the leading national women's magazines of the 1980s;

Whereas, This press coverage was not due to Representative Scholer's credentials as an accomplished individual with a background in Civil Engineering but rather due to a comment from one of her male colleagues that he was glad she was there to handle the decorating of the upcoming courthouse renovation;

Whereas, Representative Sue Scholer has faithfully served District 26 in the Indiana General Assembly for fourteen years, and has served the past four years as Assistant Republican Leader;

Whereas, Representative Scholer quickly gained a reputation for her ability to work with legislators on both sides of the aisle;

Whereas, Representative Scholer is known for her straightforward style and has always tackled the challenging issues facing the General Assembly with the perspective of how it would affect the state in both the short and long term;

Whereas, Representative Scholer has been especially active on issues in the areas of education, government efficiency and planning, and the environment;

Whereas, Representative Scholer was proud to serve on the bipartisan Education Roundtable which made great strides in bringing positive long-term changes to education in Indiana;

Whereas, As a testament to her desire to bring new women leaders into the political process, Representative Scholer has been an active supporter of the Richard G. Lugar Excellence in Public Service Series and has devoted her time, energy, and talents to Indiana Girls State for several years;

Whereas, Representative Scholer represented Indiana as Past Chair of the Midwestern Legislative Conference for the Council of State Governments, as well as participated in the National Order of Women Legislators and Women in Government;

Whereas, Representative Scholer has been honored as Outstanding Legislator by United Senior Action in 1993, as a Small Business Champion in 1995, and in 1997 received the Distinguished Legislator Award by the National Alliance for the Mentally Ill;

Whereas, Representative Scholer is famous for taking her staff on car tours of her district;

Whereas, On one such occasion, Representative Scholer missed the exit on I-65 and promptly decided to make a U-turn through the police median at 65 m.p.h. in front of a semi-truck, almost causing her staff to go into cardiac arrest;

Whereas, Representative Scholer's husband, Chuck, has slowly engineered her retirement by stealth and intrigue, generously giving her indestructible yard signs to other candidates and thereby decreasing her ability to campaign;

Whereas, Representative Scholer has always made her family her priority during her career as a public servant, joyfully raising three children and continuing to delight in spending time with her five grandsons and three granddaughters; and

Whereas, Representative Scholer will be missed by her colleagues in the Indiana House of Representatives for her sound advice, leadership, and unwavering friendship: Therefore,

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

SECTION 1. That the Indiana House of Representatives honors Representative Sue Scholer for her dedication to public service, through these fourteen years representing the needs of her constituents and improving the lives and well-being of the citizens of Indiana.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Representative Sue Scholer.

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

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 1001 and that the House now concur in the Senate amendments to said bill.

CRAWFORD

Roll Call 294: yeas 94, nays 0. Motion prevailed.

RESOLUTIONS ON FIRST READING

House Resolution 86

Representatives Richardson and Denbo introduced House Resolution 86:

A HOUSE RESOLUTION honoring Representative Brooks LaPlante for his service to the people of Indiana, particularly District 46, upon his retirement from the Indiana General Assembly.

Whereas, Representative Brooks LaPlante has served as State Representative for District 46, which serves Clay, Monroe, Owen, and Vigo Counties, since 2002;

Whereas, Representative LaPlante is Chief Operating Office and owner of Doughmakers, which was started in 1997;

Whereas, Representative LaPlante, with over eighteen years of manufacturing experience in Indiana, has worked hard to focus attention on issues affecting Hoosier business owners and workers;

Whereas, Representative LaPlante graduated with a B.A. in General Science from the University of Rochester and the Simon School of Business from the University of Rochester;

Whereas, Representative LaPlante served in the U.S. Navy as an anti-submarine warfare specialist;

Whereas, Representative LaPlante serves as an elder at Maryland Community Church;

Whereas, Representative LaPlante also generously donates his time to the following organizations such as Wabash Valley Youth for Christ, Junior Achievement of the Wabash Valley, and The Boy Scouts of America;

Whereas, Representative LaPlante is a loving and dedicated husband and father to his wife, Bette, and their three children, Taylor, Courtney, and Daniel; and

Whereas, Representative LaPlante will be greatly missed by his colleagues in the Indiana General Assembly: 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 honors Representative Brooks LaPlante for his service to the people of Indiana, particularly District 46, upon his retirement from the Indiana General Assembly.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Representative Brooks LaPlante.

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

House Resolution 87

Representatives Denbo and Richardson introduced House Resolution 87:

A HOUSE RESOLUTION honoring Brian Hasler on the occasion of his retirement from the Indiana House of Representatives.

Whereas, Representative Brian Hasler is winding down his legislative career, has spoken on his last resolution, and is working on his last conference committee reports;

Whereas, After serving in the House of Representatives since 1996, Representative Hasler will retire at the end of the 2004 legislative session;

Whereas, Representative Hasler's career as an elected official was the culmination of a goal he has been working toward since his days as an intern in the Indiana Senate;

Whereas, This goal was achieved when Representative Hasler was elected to serve the constituency of District 77 comprised of downtown Evansville, the east and south side of Evansville, and the historic city of Newburgh in Warrick County;

Whereas, As a member of the House of Representatives, Representative Hasler served as the chair of the Technology, Research and Development Committee, is a member of the Financial Institutions Committee, the Interstate and International Cooperation Committee, the Public Health Committee, the Health Finance Commission, the Regulatory Flexibility Committee, the Juvenile Crime and Restorative Justice Commission, the Indiana Energy and Recycling Development Board, the Hoosier Millennium Task Force, and as the governor's representative on the Evansville Urban Enterprise Association Board;

Whereas, In addition to his work on these committees, Representative Hasler has served as chairman of the Indiana Workforce Development Commission and the Compliance Advisory Panel;

Whereas, Representative Hasler has received numerous awards recognizing his outstanding legislative work, including Legislator of the Year in 1997 by the Aviation Association of Indiana in recognition for his passage of the Evansville Airport Development Zone bill, the first freshman legislator to win this award; the David and Goliath Award for his work to limit youth access to tobacco products; and the Indiana Coalition for Housing and Homeless Issues Key Award for Service by a Government Official;

Whereas, However, Representative Hasler's days in the General Assembly have not been all work;

Whereas, While serving in the House of Representatives, Representative Hasler was married to Maggie McShane, and they are now the proud parents of two sons, Hugh and Harry;

Whereas, Representative Hasler is known throughout the State House as a tenacious proponent of a cause; for example, a few years ago, he relentlessly chased down a Senator for a signature on a conference committee report even though it was widely known that the Senator would not sign the report;

Whereas, Representative Hasler is a roamer when the House of Representatives convenes;

Whereas, In order to encourage Representative Hasler to stay in his seat, the Speaker seated him in the middle of the House floor;

Whereas, In addition to his legislative duties, Representative Hasler serves on the board of directors of the Preservation Alliance, is a member of the Business Committee of the Center City Corporation, serves on the board of directors of the Timmy Foundation, and has been an active member and past president of the Evansville Number One Toastmasters Club; and

Whereas, The members of the House of Representatives will miss Representative Brian Hasler: Therefore,

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

SECTION 1. That the members of the Indiana House of Representatives wish a fond farewell to one of their own and wish him continued success in his future endeavors.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Representative Brian Hasler and his family.

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

ADJOURNMENT OF THE SECOND REGULAR SESSION

HOUSE MOTION

Mr. Speaker: I move that all requests for interim studies, including those made by resolution, bills which failed to pass both Houses of the General Assembly, or written or oral requests to the Speaker of the House are hereby referred to the Legislative Council for further consideration as it deems necessary or appropriate.

KUZMAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that the Speaker of the House of Representatives appoint a committee of four members of the House of Representatives to confer with the Senate for the purpose of ascertaining if the Senate has any further legislative business to transact with the House of Representatives.

DOBIS

Motion prevailed. The Speaker appointed Representatives Bischoff, Porter, D. Young, and LaPlante.

COMMITTEE REPORT

Mr. Speaker: Your Committee which was appointed by the Speaker to ascertain if the Senate has further legislative business to transact with the House of Representatives has performed the duties assigned to them. The committee reports that the Senate has no further legislative business with the House of Representatives.

BISCHOFF PORTER
D. YOUNG LaPLANTE

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that the Speaker of the House of Representatives appoint a committee of four members of the House of Representatives to confer with the Governor for the purpose of ascertaining if the Governor has any further communications to make to the House of Representatives.

ORENTLICHER

Motion prevailed. The Speaker appointed Representatives Van Haaften, Dickinson, Scholer, and Mangus.

COMMITTEE REPORT

Mr. Speaker: Your Committee which was appointed by the Speaker to ascertain if the Governor has further business to transact with the House of Representatives has performed the duties assigned to them. The committee reports that the Governor has no further business to transact with the House of Representatives.

VAN HAAFTEN DICKINSON
SCHOLER MANGUS

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that the Speaker of the House of Representatives appoint a committee of four members of the House of Representatives to inform the Senate that the House of Representatives has completed its business and is ready to adjourn.

DVORAK

Motion prevailed. The Speaker appointed Representatives Stilwell, L. Lawson, D. Young, and LaPlante.

COMMITTEE REPORT

Mr. Speaker: Your Committee which was appointed by the Speaker to inform the Senate that the House of Representatives has completed its business and is ready to adjourn has performed the duties assigned to it. The committee reports that they have informed the Senate that the House of Representatives has completed its business and is ready to adjourn.

STILWELL L. LAWSON
D. YOUNG LaPLANTE

Report adopted.

HOUSE MOTION

Mr. Speaker: I move that the Speaker of the House of Representatives appoint a committee of four members of the House of Representatives to inform the Governor that the House of Representatives has completed its business and is ready to adjourn.

BOTTORFF

Motion prevailed. The Speaker appointed Representatives Orentlicher, Oxley, Scholer, and Mangus.

COMMITTEE REPORT

Mr. Speaker: Your Committee which was appointed by the Speaker to inform the Governor that the House of Representatives has completed its business and is ready to adjourn has performed the duties assigned to them. The committee reports that they have informed the Governor that the House of Representatives has completed its business and it ready to adjourn.

ORENTLICHER OXLEY
SCHOLER MANGUS

Report adopted.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the following committee report:

"Your committee appointed to ascertain whether the House of Representatives has any further legislative business to transact hereby reports that your Committee of Senators Dillon and Sipes has conferred with the House of Representatives and the House of Representatives has no further business to transact with the Senate."

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 following committee report:

"Your committee appointed to confer with the Governor to ascertain whether or not he has any further communications to make to the Senate hereby reports that your Committee of Senators K. Adams and Antich-Carr has waited upon the Governor and that the Governor has no further communications to make to the Senate."

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 adjourned the Second Regular Session of the 113th Indiana General Assembly *sine die* at 10:01 p.m. on the fourth day of March 2004.

MARY C. MENDEL
Principal Secretary of the Senate

HOUSE MOTION

Mr. Speaker: I move that the House of Representatives of the Second Regular Session of the 113th General Assembly do now adjourn *sine die* at 11:59 p.m., this fourth day of March, 2004.

HASLER

Motion prevailed. The House adjourned *sine die*.

B. PATRICK BAUER
Speaker of the House of Representatives

DIANE MASARIU CARTER
Principal Clerk of the House of Representatives