Journal of the House

State of Indiana

114th General Assembly — Second Regular Session

Twenty-ninth Meeting Day — **Tuesday Morning** — **March 14, 2006**

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

The Pledge of Allegiance to the Flag was led by Representative Randy L. Borror.

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

Aguilera
Austin
Avery
Ayres
Bardon
Bauer
Behning
Bell
Bischoff
Borders
Borror
C. Bottorff
Bright
C. Brown
T. Brown
Buck
Budak
Buell
Burton
Cheney
Cherry
Cochran
Crawford
Crooks
Crouch
Davis
Day
Denbo
Dickinson
Dobis
Dodge
Duncan
Dvorak
Espich
Foley
Friend
Frizzell
Fry
GiaQuinta
Goodin
Grubb
Gutwein
E. Harris
T. Harris
Heim
Hinkle
Hoffman
Hoy
Kersey
Klinker
Koch
Kromkowski
Kuzman
L. Lawson
Lehe
Leonard
J. Lutz
Mahern
Mays
McClain
Messer
Micon
Moses
Murphy
Neese
Noe
Orentlicher
Oxley
Pelath
Pflum
Pierce
Pond
Porter
Reske
Richardson
Ripley
Robertson
Ruppel
Saunders
J. Smith
V. Smith
Stevenson
Stilwell
Stutzman
Summers
Thomas
Thompson
Tincher
Torr
Turner
Tyler
Ulmer
VanHaaften
Walorski
Welch
Whetstone
Wolkins
Woodruff
Yount
Mr. Speaker

Roll Call 448: 100 present. The Speaker announced a quorum in attendance.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Governor has this 13th day of March, 2006, approved Senate Enrolled Acts 33, 36, 39, 69, 146, 151, 154, 169, 173, 191, 201, 205, 308, and 374 and the same have been deposited with the Secretary of State.

MARY C. MENDEL
Principal Secretary of the Senate

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 1227 and that the House now concur in the Senate amendments to said bill.

BUDAK

Roll Call 449: yeas 89, nays 0. Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that the House reconsider its actions whereby it dissented from the Senate amendments to Engrossed House Bill 1420 and that the House now concur in the Senate amendments to said bill.

T. BROWN

Roll Call 450: yeas 69, nays 23. Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that the House concur in the Senate amendments to Engrossed House Bill 1267.

BORROR

Roll Call 451: yeas 51, nays 46. Motion prevailed.

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 1011 because it conflicts with HEA 1156-2006 without properly recognizing the existence of HEA 1156-2006, has had Engrossed House Bill 1011 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1011 be corrected as follows:

Page 81, line 7, delete "P.L.2-2005," and insert "HEA 1156-2006, SECTION 13,".
Page 81, delete line 8.
Page 81, line 9, delete "CORRECTED AND".
Page 81, line 17, delete "1996 2008" and insert "2008".
Page 81, line 20, delete "2000 2006" and insert "2006".
Page 81, line 21, delete "nine (9)" and insert "ten (10)".
Page 81, line 28, delete "IC 3-11-2. IC 3-11." and insert "IC 3-11.".
Page 81, line 29, delete "1996 2008" and insert "2008".
Page 81, line 31, delete "fifteen (15)" and insert "sixteen (16)".
Page 81, line 32, delete "2000 2006" and insert "2006".
Page 81, line 33, delete "seventeen".

Page 81, line 34, delete "(17)" and insert "twenty (20)".
(Reference is to EHB 1011 as reprinted February 24, 2006.)

WHETSTONE, Chair
PELATH, R.M.M.
RICHARDSON, Author

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed House Bill 1212 because it conflicts with SEA 71-2006 without properly recognizing the existence of SEA 71-2006, has had Engrossed House Bill 1212 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1212 be corrected as follows:

Page 25, delete lines 28 through 29, begin a new line block indented and insert:

"**(4) The exemptions under IC 6-1.1-10-2, IC 6-1.1-10-4, and IC 6-1.1-10-5 do not apply to assessments imposed under this chapter.**

(d) Not later than June 1 of each year, the county treasurer shall, in the manner specified by the state land office, send to the state land office a list of all properties:

(1) for which one (1) or more assessment payments under this section are delinquent; and

(2) that are owned by:

(A) the state; or

(B) a state agency.".

(Reference is to EHB 1212 as reprinted March 2, 2006.)

WHETSTONE, Chair
PELATH, R.M.M.
DODGE, Author

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 84 because it conflicts with SEA 246-2006 without properly recognizing the existence of SEA 246-2006, has had Engrossed Senate Bill 84 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 84 be corrected as follows:

Page 1, line 1, after "IC 11-13-3-4" insert ", AS AMENDED BY SEA 246-2006, SECTION 2,".

Page 3, line 1, delete "parole, unless the offender obtains written" and insert "parole;".

Page 3, line 2, delete "approval from the parole board;".

Page 3, line 5, after "offense" insert ".".

Page 3, line 5, delete "unless".

Page 3, delete lines 6 through 10.

Page 3, line 13, delete "confidential, even if the offender obtains a waiver under" and insert "confidential.".

Page 3, delete line 14.

(Reference is to ESB 84 as printed February 14, 2006.)

WHETSTONE, Chair
PELATH, R.M.M.
FOLEY, Sponsor

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 153 because it conflicts with SEA 132 AND HEA 1040-2006 without properly recognizing the existence of SEA 132 AND HEA 1040-2006, has had Engrossed Senate Bill 153 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 153 be corrected as follows:

Page 9, line 38, after "IC 31-14-11-11" insert ", AS AMENDED BY SEA 132-2006, SECTION 225,".

Page 9, line 42, delete "IC 12-17-2" and insert "IC 31-25-3 or IC 31-25-4".

Page 23, line 41, after "IC 33-32-4-5" insert ", AS AMENDED BY SEA 132-2006, SECTION 366,".

Page 24, line 15, delete "division of family and children;".

Page 24, line 15, reset in roman "department of child services".

Page 25, line 3, after "IC 33-37-5-6" insert ", AS AMENDED BY HEA 1040-2006, SECTION 508,".

Page 25, line 26, delete ", IC 33-37-7-1(g),".

(Reference is to ESB 153 as reprinted February 28, 2006.)

WHETSTONE, Chair
PELATH, R.M.M.
RICHARDSON, Sponsor

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 296 because it conflicts with HEA 300-2006 without properly recognizing the existence of HEA 300-2006, has had Engrossed Senate Bill 296 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 296 be corrected as follows:

Page 1, line 1, after "IC 5-2-6.1-41" insert ", AS AMENDED BY SEA 300-2006, SECTION 19,".

Page 1, line 4, reset in roman "IC 34-51-3-6,".

(Reference is to ESB 296 as printed February 22, 2006.)

WHETSTONE, Chair
PELATH, R.M.M.
FOLEY, Sponsor

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 362 because it conflicts with SEA 132-2006 without properly recognizing the existence of SEA 132-2006, has had Engrossed Senate Bill 362 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 362 be corrected as follows:

Page 6, line 9, after "IC 6-8.1-7-1" insert ", AS AMENDED BY SEA 132-2006, SECTION 19,".

Page 6, line 39, delete "and".

Page 6, line 40, delete "children,".

Page 6, line 40, reset in roman "resources,".

(Reference is to ESB 362 as reprinted February 28, 2006.)

WHETSTONE, Chair
PELATH, R.M.M.
TURNER, Sponsor

Report adopted.

CONFEREES AND ADVISORS APPOINTED

The Speaker announced the following changes in appointment of Representatives as conferees and advisors:

EHB 1008 Conferees: Espich replacing Bauer

EHB 1315 Advisor: Mays

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
EHB 1110–1; filed March 14, 2006, at 10:10 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 1110 respectfully reports that said two committee have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-23-5.5-14 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) The Indiana recycling promotion and assistance fund is established. The purpose of the fund is to promote and assist recycling throughout Indiana by focusing economic development efforts on businesses and projects involving recycling. The fund shall be administered by the board.

(b) Sources of money for the fund consist of the following:

(1) Appropriations from the general assembly.

(2) Repayment proceeds of loans made from the fund.

(3) Gifts and donations.

(4) Money from the solid waste management fund.

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

(d) The board may use money in the fund to make loans to assist:

(1) persons in establishing new recycling businesses;

(2) in the expansion of existing recycling businesses; and

(3) manufacturers in retrofitting equipment necessary to reuse or recycle secondary materials.

(e) The board shall establish loan:

(1) amounts;

(2) terms; and

(3) interest rates.

(f) The board may use money in the fund to make grants for research and development projects involving recycling. The board shall establish amounts for grants.

(g) A person, business, or manufacturer that wants a grant or loan from the fund must file an application with the board.

(h) The board shall establish criteria for awarding grants and loans under this section.

(i) The board may transfer money in the fund to the state solid waste management fund established by IC 13-20-22-2 for use by the department of environmental management to make payments under IC 13-20-17.7-6.

SECTION 2. IC 13-11-2-16.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 16.3. (a) "Automotive salvage recycler", for purposes of this chapter, means a business that:**

(1) acquires damaged, inoperative, discarded, abandoned, or salvage motor vehicles, or their remains, as stock-in-trade;

(2) dismantles and processes the vehicles or remains for the reclamation and sale of reusable components and parts; and

(3) disposes of recyclable materials to a scrap metal processor or other appropriate facility.

(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

SECTION 3. IC 13-11-2-16.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 16.5. (a) "Automobile scrapyard", for purposes of this chapter, means a business organized for any of the following purposes:**

(1) Processing scrap metal.

(2) Wrecking automobiles.

(3) Operating a junkyard.

(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

SECTION 4. IC 13-11-2-66.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 66.9. (a) "End of life vehicle", for purposes of IC 13-20-17.7, means a motor vehicle that is:**

(1) sold; or

(2) otherwise conveyed;

to a motor vehicle recycler for the purpose of recycling.

(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

SECTION 5. IC 13-11-2-71, AS AMENDED BY SEA 234-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 71. "Environmental management laws" refers to the following:

(1) IC 13-12-2 and IC 13-12-3.

(2) IC 13-13.

(3) IC 13-14.

(4) IC 13-15.

(5) IC 13-16.

(6) IC 13-17-3-15, IC 13-17-8-10, IC 13-17-10, and IC 13-17-11.

(7) IC 13-18-12 and IC 13-18-15 through IC 13-18-20.

(8) IC 13-19-1 and IC 13-19-4.

(9) IC 13-20-1, IC 13-20-2, IC 13-20-4 through IC 13-20-15, **IC 13-20-17.7,** and IC 13-20-19 through IC 13-20-21.

(10) IC 13-22.

(11) IC 13-23.

(12) IC 13-24.

(13) IC 13-25-1 through IC 13-25-5.

(14) IC 13-27-8.

(15) IC 13-30, except IC 13-30-1.

SECTION 6. IC 13-11-2-104.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 104.5. (a) "Hulk crusher", for purposes of this chapter, means an enterprise that engages in the business of handling and flattening, compacting, or otherwise demolishing motor vehicles or their remains for economical delivery to a scrap metal processor or other appropriate facility.**

(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

SECTION 7. IC 13-11-2-128.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 128.8. (a) "Mercury switch", for purposes of IC 13-20-17.7, means a convenience light switch that:**

(1) is located in the hood or trunk lid of a motor vehicle; and

(2) contains mercury.

(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

SECTION 8. IC 13-11-2-130.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 130.1. (a) "Motor vehicle", for purposes of this chapter, means a vehicle that is self-propelled on a highway in Indiana. The term does not include a farm tractor or a motorized bicycle.**

(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

SECTION 9. IC 13-11-2-130.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 130.2. (a) "Motor vehicle manufacturer", for purposes of this chapter, means a person that is engaged in the business of manufacturing or assembling new motor vehicles for sale to any of the following:**

(1) Dealers.

(2) Wholesale dealers.

(3) Distributors.

(4) The general public.

(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

SECTION 10. IC 13-11-2-130.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 130.3. (a) "Motor vehicle recycler", for purposes of IC 13-20-17.7, means any of the following:**

(1) An automotive salvage recycler.

(2) An automobile scrapyard.

(3) A hulk crusher.

(4) A scrap metal processor.

(5) A vehicle disposal facility.

(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

SECTION 11. IC 13-11-2-136.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 136.5. (a) "National mercury switch recovery program", for purposes of IC 13-20-17.7, means a national program:**

(1) that accomplishes, as determined by the commissioner, the goals of IC 13-20-17.7; and

(2) in which the state participates.

(b) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

SECTION 12. IC 13-11-2-196.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 196.5. (a) "Scrap metal processor", for purposes of this chapter, means a private, commercial, or governmental enterprise:**

(1) that has facilities for processing iron, steel, or nonferrous scrap; and

(2) whose principal product is scrap iron, scrap steel, or nonferrous scrap for sale for remelting purposes.

(b) The term does not include a steel mill.

(c) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

SECTION 13. IC 13-11-2-245.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 245.2. (a) "Vehicle disposal facility", for purposes of this chapter, means a person, firm, limited liability company, corporation, or other legal entity that, in the course of business, engages in the acquisition and dismantling or demolition of motor vehicles, motorcycles, semitrailers, or recreational vehicles or their remains for the benefit of reusable components and parts or recyclable materials.**

(b) The term includes the following enterprises:

(1) An automotive salvage recycler.

(2) A hulk crusher.

(c) The term does not include a scrap metal processor.

(d) This section expires on the date IC 13-20-17.7 expires under IC 13-20-17.7-9.

SECTION 14. IC 13-14-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) The officials collecting the following shall remit the money to the treasurer of state:

(1) Money collected under the following:

(A) IC 13-30-4-1.

(B) IC 13-30-4-2.

(C) IC 13-30-5-1.

(2) Fees collected under IC 13-16-1-2 through IC 13-16-1-5.

(b) **Except as provided in subsection (c),** the treasurer of state shall credit the money to the environmental management special fund.

(c) With respect to the money collected under subsection (a)(1)(A) and (a)(1)(B):

(1) the commissioner may direct the treasurer of state to credit all or a part of the money to the solid waste management fund established by IC 13-20-22-2; and

(2) the treasurer of state shall:

(A) credit money as directed by the commissioner under subdivision (1); and

(B) credit to the environmental management special fund only money that is not credited under subdivision (1).

SECTION 15. IC 13-20-17.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 17.7. Mercury Switches in End of Life Vehicles

Sec. 1. (a) Except as provided in subsection (b), motor vehicle manufacturers engaged on July 1, 2006, in the business of offering motor vehicles for sale in Indiana shall, individually or collectively:

(1) develop a plan to:

(A) remove;

(B) collect;

(C) recover; and

(D) recycle or dispose of;

mercury switches from end of life vehicles;

(2) submit the plan to the commissioner before October 1, 2006; and

(3) implement the plan as required under section 4(b) of this chapter.

(b) Subsection (a) does not apply to a motor vehicle manufacturer that has never installed mercury switches in the manufacturer's motor vehicles.

Sec. 2. (a) A plan described in section 1 of this chapter must include the following:

(1) An education program concerning the purposes of the mercury switch collection program and how to participate in the program, including the following:

(A) Educational materials about the program.

(B) Information identifying which end of life vehicles might contain mercury switches by make, model, and year of manufacture.

(C) Instructions on safe and environmentally sound methods to remove mercury switches.

(2) The provision of containers for collecting and storing mercury switches.

(3) Procedures for the transportation of mercury switches to recycling, storage, or disposal facilities.

(4) Procedures for the recycling, storage, and disposal of mercury.

(5) Procedures to track the progress of the program, including a description of performance measures to be used and reported to demonstrate that the program is meeting measures of the effectiveness of the program, including the following:

(A) The number of mercury switches collected from end of life vehicles.

(B) The amount of mercury collected.

(6) Procedures for implementing the plan.

(b) The department shall:

(1) prepare an annual report that includes the information tracked under subsection (a)(5); and

(2) provide the report to:

(A) the legislative council in an electronic format under IC 5-14-6; and

(B) the environmental quality service council.

Sec. 3. Motor vehicle manufacturers that submit plans, individually or collectively, under this chapter shall pay the following costs incurred for implementing the plans:

(1) Educational materials.

(2) Training.

(3) Packaging for transporting mercury switches to recycling, storage, or disposal facilities.

(4) Shipping of mercury switches to recycling, storage, or disposal facilities.

(5) Recycling, storage, or disposal of mercury switches.

(6) Maintenance of all appropriate systems and procedures to protect the environment from mercury contamination.

Sec. 4. (a) The commissioner shall do the following:

(1) Not more than thirty (30) days after receiving a plan developed by a motor vehicle manufacturer or a group of motor vehicle manufacturers under section 1 of this chapter, issue a public notice of a period of at least thirty (30) days during which the public may submit written comments on the plan to the commissioner.

(2) Not more than one hundred twenty (120) days after receiving a plan, determine whether the entire plan complies with this chapter and:

(A) if the entire plan complies with this chapter, approve the plan in its entirety;

(B) if no part of the plan complies with this chapter, reject the plan in its entirety; or

(C) if only part of the plan complies with this chapter, approve that part and reject the rest of the plan.

(b) If a plan is approved in its entirety under subsection (a)(2)(A), the motor vehicle manufacturers shall begin implementing the plan not more than thirty (30) days after the date the plan is approved. If an entire plan is rejected under subsection (a)(2)(B), the commissioner shall inform the motor vehicle manufacturers why the plan was rejected, and the manufacturers shall submit a new plan not more than thirty (30) days after the commissioner informs the manufacturers that the entire plan was rejected. If a plan is approved in part and rejected in part under subsection (a)(2)(C), the manufacturers shall immediately implement the approved part of the plan and submit a revision of the rejected part of the plan not more than thirty (30) days after the commissioner informs the manufacturers of the commissioner's partial approval. The commissioner shall make a determination on a revised plan not more than thirty (30) days after receiving the revised plan.

(c) Not more than two hundred forty (240) days after receiving a plan developed by motor vehicle manufacturers under section

1 of this chapter, the commissioner shall complete, on behalf of the manufacturer, any part of the plan that has not yet been approved.

(d) After a plan has been approved under this section, the commissioner shall:

(1) review the plan three (3) years after the original date of approval of the plan and every three (3) years thereafter; and

(2) work with the motor vehicle manufacturers to agree with the manufacturers on appropriate modifications to the plan.

(e) Motor vehicle manufacturers are not required to resubmit a plan modified under subsection (d) to the commissioner for approval.

Sec. 5. (a) Beginning thirty (30) days after the earliest date the commissioner approves a plan under section 4 of this chapter, a motor vehicle recycler is required to remove all mercury switches from each end of life vehicle the motor vehicle recycler receives upon receipt of the vehicle.

(b) After a mercury switch is removed from a vehicle, the mercury switch shall be collected, stored, transported, and otherwise handled in accordance with the plan approved under section 4 of this chapter.

(c) Notwithstanding subsection (a), a motor vehicle recycler may accept an end of life vehicle containing mercury switches that has not been intentionally flattened, crushed, or baled if the motor vehicle recycler assumes responsibility for removing the mercury switches.

(d) A motor vehicle recycler or any other person that removes mercury switches in accordance with this section shall maintain records that document the number of:

(1) end of life vehicles the person processed for recycling;

(2) end of life vehicles the person processed that contained mercury switches; and

(3) mercury switches the person collected.

A person that maintains records under this section shall retain the records for at least three (3) years.

(e) A person may not represent that mercury switches have been removed from a motor vehicle being sold or otherwise conveyed for recycling if the person has not removed the mercury switches from the vehicle.

(f) A motor vehicle recycler or other person that receives an intentionally flattened, crushed, or baled end of life vehicle may not be considered to be in violation of this section if a mercury switch is found in the vehicle after the person acquires the vehicle.

Sec. 6. (a) Subject to subsections (b), (c), and (d), a person is entitled to payment from the department for each mercury switch the person removes from an end of life vehicle under section 5(a) of this chapter.

(b) The commissioner shall establish:

(1) the amount of the payment under subsection (a), which must be:

(A) at least one dollar ($1); and

(B) not more than five dollars ($5);

per mercury switch; and

(2) a procedure for claims for payment under this section.

(c) The commissioner shall determine:

(1) whether to use money in the state solid waste management fund; and

(2) if the commissioner determines under subdivision (1) to use money in that fund, the amount of money from the fund to be used;

to make payments under this section.

(d) The department is required to make payments under this section only to the extent of the amount of money determined by the commissioner under subsection (c)(2).

Sec. 7. The board may adopt rules under IC 4-22-2 and IC 13-14-9 to implement this chapter.

Sec. 8. (a) This chapter shall be enforced under IC 13-30-3.

(b) A violation of this chapter or a rule adopted under this chapter is subject to the penalties set forth in the following:

(1) IC 13-30-4.

(2) IC 13-30-5.

(3) IC 13-30-6.

(4) IC 13-30-8.

Sec. 9. This chapter expires on the earlier of:

(1) the date on which a national mercury switch recovery program takes effect, as determined by the commissioner; or

(2) July 1, 2016.

SECTION 16. IC 13-20-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The state solid waste management fund is established to provide money for the following:

(1) Programs that provide grants and loans that provide education and promote the following:

(A) Recycling and the use of recycled materials.

(B) Waste reduction.

(C) Management of yard waste.

(2) Providing grants to implement household hazardous waste source reduction or recycling projects.

(3) Providing grants for household hazardous waste and conditionally exempting small quantity generator waste collection, recycling, or disposal projects under IC 13-20-20.

(4) Payments by the department under IC 13-20-17.7-6.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The sources of money for the fund are the following:

(1) All fees deposited into the fund under section 12(2) of this chapter.

(2) Accrued interest and other investment earnings of the fund.

(3) Appropriations made by the general assembly.

(4) Gifts and donations from any person to the fund.

(5) Civil penalties imposed under IC 13-30-4 and fines imposed under IC 13-30-6 for violations of IC 13-20-17.7.

(6) Subject to subsection (f), assets assigned and other contributions made by persons.

(7) Transfers from the Indiana recycling promotion and assistance fund under IC 4-23-5.5-14(i).

(8) Money credited to the fund from the environmental management special fund under IC 13-14-12-1(c).

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

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

(f) Money in the fund resulting from assets assigned and other contributions made under subsection (c)(6) may be used only by the department of environmental management to make payments under IC 13-20-17.7-6.

(Reference is to EHB 1110 as reprinted February 28, 2006.)

T. BROWN	GARD
C. BROWN	TALLIAN
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT

ESB 303–1; filed March 14, 2006, at 10:23 a.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 303 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 9-16-1-7, AS ADDED BY P.L.221-2005, SECTION 142, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. **(a) This section does not apply to a license branch in a county if there are no precincts in the county in which an election is held on election day.**

~~(a)~~ **(b)** On each general, municipal, primary, and special election day (as defined in ~~IC 3-5-1-2),~~ **IC 3-5-2-18),** all ~~full service~~ license branches **that provide state identification cards** must remain open

from 6:00 a.m., local time, to 6:00 p.m., local time, solely for the purpose of issuing driver's licenses and state identification cards under IC 9-24.

~~(b)~~ **(c)** On the day before each general, municipal, primary, and special election day (as defined in ~~IC 3-5-1-2),~~ **IC 3-5-2-18),** all ~~full service~~ license branches **that provide state identification cards** must remain open from 8:30 a.m., local time, to 8:00 p.m., local time, solely for the purpose of issuing driver's licenses and state identification cards under IC 9-24.

~~(c)~~ **(d)** The commission shall:

(1) designate another day as ~~compensatory~~ time off; or

(2) authorize overtime pay;

for license branch personnel required to work on an election day.

SECTION 2. IC 9-23-2-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 16. (a) A person licensed under this article shall be issued a special event permit from the bureau for a special event meeting the following conditions:**

(1) The event is a vehicle auction conducted by auctioneers licensed under IC 25-6.1-3.

(2) The vehicles to be auctioned are:

(A) at least fifteen (15) years old; or

(B) classified as classic, collector, or antique vehicles under rules adopted by the bureau.

(3) At least one hundred (100) vehicles will be auctioned during the special event.

(4) An application for a special event permit has been submitted to the bureau not later than thirty (30) days before the beginning date of the special event.

(5) The application is accompanied by the permit fee required under IC 9-29-8-6.5.

(b) Not more than two (2) special event permits may be issued by the bureau within a twelve (12) month period to the same applicant.

SECTION 3. IC 9-24-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. Except as provided in section 6 or 7 of this chapter, an individual must have a valid Indiana:

(1) operator's license;

(2) chauffeur's license;

(3) public passenger chauffeur's license;

~~(4) learner's permit;~~

~~(5)~~ **(4)** commercial driver's license; ~~or~~

~~(6)~~ **(5) driver's license listed in subdivision (1), (2), (3) or (4) with a** motorcycle operator's license or endorsement; **or**

(6) learner's permit;

issued to the individual by the bureau under this article to drive upon an Indiana highway the type of motor vehicle for which the license or permit was issued.

SECTION 4. IC 9-24-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. Except as provided in section 3 of this chapter, an individual must meet one (1) of the following conditions to receive an operator's license:

(1) The applicant meets the following conditions:

(A) Is at least sixteen (16) years and thirty (30) days of age.

(B) Has held a valid learner's permit at least sixty (60) days.

(C) Has obtained an instructor's certification that the applicant has satisfactorily completed an approved driver education course.

(D) Has passed the required examination.

(2) The applicant meets the following conditions:

(A) Is at least sixteen (16) years and one hundred eighty (180) days of age.

(B) Has held a valid learner's permit for at least sixty (60) days.

(C) Has passed the required examination.

~~(3) The applicant meets the following conditions:~~

~~(A) Is at least eighteen (18) years of age.~~

~~(B) Has operated a motor vehicle for at least one (1) year.~~

~~(C) Passes the required examination.~~

~~(4)~~ **(3)** The applicant meets the following conditions:

(A) Is at least sixteen (16) years and one hundred eighty (180) days of age.

(B) Has, within the past three (3) years, held an Indiana operator's, chauffeur's, or public passenger chauffeur's license that has not been suspended or revoked.

(C) Passes the required examination.

~~(5)~~ **(4)** The applicant meets the following conditions:

(A) Is at least sixteen (16) years and one hundred eighty (180) days of age.

(B) Has previously been a nonresident of Indiana but who, at the time of application, qualifies as an Indiana resident.

(C) Has held for at least one (1) year an unrevoked operator's, chauffeur's, or public passenger chauffeur's license in the state, district, or county in which the applicant has been a resident.

(D) Passes the required examination.

SECTION 5. IC 9-24-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. Except as otherwise provided in this article, the bureau shall issue a public passenger chauffeur's license to an individual who meets the following conditions:

(1) Satisfies the age requirements described in section 2 of this chapter.

(2) Makes proper application to the bureau under IC 9-24-9, upon a form prescribed by the bureau.

(3) Successfully passes the physical examination given by a practicing physician licensed to practice medicine in Indiana.

(4) Has operated a motor vehicle for ~~one (1) year.~~ **at least two (2) years.**

(5) Satisfactorily passes the examination and tests for a public passenger chauffeur's license.

(6) Pays the fee prescribed in IC 9-29-9.

(7) Is at least eighteen (18) years of age.

SECTION 6. IC 9-24-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. ~~(a) Except as provided in subsection (b),~~ An individual must be at least ~~twenty-one (21)~~ **eighteen (18)** years of age to receive a public passenger chauffeur's license.

~~(b) A public passenger chauffeur's license may be issued to an individual who is at least eighteen (18) years of age for the purpose of driving a taxicab only. An application for the license must be endorsed by the parent or guardian of the individual as well as by a licensed taxicab company.~~

SECTION 7. IC 9-24-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. A public passenger chauffeur's license entitles the licensee to operate any motor vehicle, except a **commercial vehicle or a** motorcycle, upon a highway.

SECTION 8. IC 9-24-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: 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 **is at least twenty-one (21) years of age and** 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 9. IC 9-24-8-4, AS AMENDED BY HEA 1286-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) Except as provided in subsections (c) and (d), the bureau shall:

(1) issue a motorcycle operator's license; or

(2) validate an operator's, a chauffeur's, or a public passenger chauffeur's license for motorcycle operation upon a highway by endorsement;

to a person who meets the conditions in subsection (b).

(b) A person must meet at least one (1) of the following conditions to obtain a license or validation under subsection (a):

~~(1) Satisfactorily complete an approved motorcycle driver education and training course and pass the written test required by this section.~~

~~(2)~~ **(1)** Satisfactorily complete the written test, hold a motorcycle learner's permit for at least thirty (30) days, and:

(A) satisfactorily complete ~~the~~ **an approved** operational **skills** test; **or**

(B) satisfactorily complete a motorcycle operator safety education course approved by the department of education as set forth in IC 20-30-13-9.

~~(3)~~ **(2)** Hold a current motorcycle operator endorsement or **motorcycle operator's** license from any other jurisdiction and successfully complete the written test.

(c) The bureau may not issue a motorcycle operator's license **or endorsement** to an individual less than sixteen (16) years and thirty (30) days of age.

(d) If an applicant for a motorcycle license or license endorsement is less than eighteen (18) years of age, the bureau may not issue a license or validate a license described in subsection ~~(a)(2)~~ **(a)** if the applicant is ineligible under IC 9-24-2-1.

(e) The bureau shall develop and implement both a written test and an operational skills test that must be designed to determine whether an applicant for a motorcycle operator's license or endorsement is competent to operate a motorcycle upon a highway. The written test must be made available at license branch locations approved by the bureau. The operational skills test must be given at locations designated by the bureau. The bureau shall adopt rules by July 1, 2007, under IC 4-22-2 to establish standards for persons administering operational skills tests and the provisions of the operational skills test. An individual applying for a motorcycle operator's license or endorsement must pass the ~~operational skills test~~ **written exam** before taking the ~~written exam.~~ **operational skills test.** If an applicant fails to satisfactorily complete either the written or operational tests, the applicant may reapply for and must be offered the examination upon the same terms and conditions as applicants may reapply for and be offered examinations for an operator's license. The bureau shall publish and make available at all locations where an individual may apply for an operator's license information concerning motorcycle operator licensing or endorsement.

(f) An individual who:

(1) has held a motorcycle learner's permit for at least ~~two (2) months,~~ **thirty (30) days;** or

(2) holds a temporary motorcycle learner's permit, has successfully completed an approved motorcycle driver education and training course, and possesses a valid operator's, chauffeur's, or public passenger chauffeur's license;

may apply for a motorcycle operator's license **or** endorsement not later than the expiration date of the holder's permit. However, not more than three (3) examinations may be allowed a holder during the period the permit is valid. A holder of a learner's permit or a temporary learner's permit who does not pass the written and operating skills examination during the period for which the permit is valid must obtain a new learner's permit.

SECTION 10. IC 9-24-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The application of an individual less than eighteen (18) years of age for a permit or license under this chapter must be signed and sworn to or affirmed by one (1) of the following **in order of preference:**

(1) The parent having custody of the minor applicant **or a designee of the custodial parent specified by the custodial parent.**

(2) The noncustodial parent (as defined in IC 31-9-2-83) of the minor applicant or a designee of the noncustodial parent specified by the noncustodial parent.

~~(2)~~ **(3)** The guardian having custody of the minor applicant.

~~(3) If neither parent is living in Indiana and the applicant has no guardian, the person having custody or an employer of the minor applicant.~~

(4) ~~If there is no parent, guardian, or employer,~~ **In the absence of a person described in subdivisions (1) through (3),** any other ~~responsible individual~~ **adult** who is willing to assume the obligations imposed by the provisions of this chapter.

SECTION 11. IC 9-24-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) A license issued to an individual less than eighteen (18) years of age is a probationary license.

(b) An individual holds a probationary license subject to the following conditions:

(1) Except as provided in IC 31-37-3, the individual may not operate a motor vehicle during the curfew hours specified in IC 31-37-3-2.

(2) During the ninety (90) days following the issuance of the probationary license, the individual may not operate a motor vehicle in which there are passengers unless another individual who:

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

(B) holds a valid operator's license issued under this article;

is present in the front seat of the motor vehicle.

(3) The individual may operate a motor vehicle only if the individual and each occupant of the motor vehicle has a safety belt properly fastened about the occupant's body at all times when the motor vehicle is in motion.

(c) An individual who holds a probationary license issued under this section may receive an operator's license, a chauffeur's license, a public passenger chauffeur's license, or a commercial driver's license when the individual is at least eighteen (18) years of age.

(d) A probationary license issued under this section:

~~(1) is valid for not more than four (4) years from the date the license is issued;~~

(1) expires at midnight of the twenty-first birthday of the holder; and

(2) may not be renewed.

SECTION 12. IC 9-24-12-1, AS AMENDED BY HEA 1103-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Except as provided in subsection (b) and section 10 of this chapter, an operator's license issued under this article after December 31, 1996, and before January 1, 2006, expires at midnight of the birthday of the holder that occurs four (4) years following the date of issuance.

(b) Except as provided in sections 10 and 11 of this chapter, an operator's license issued after December 31, 1996, to an applicant who is at least seventy-five (75) years of age expires at midnight of the birthday of the holder that occurs three (3) years following the date of issuance.

(c) Except as provided in ~~subsection~~ **subsections** (b) **and (d)** and sections 10 and 11 of this chapter, after December 31, 2005, an operator's license issued under this article expires at midnight of the birthday of the holder that occurs six (6) years following the date of issuance.

(d) A probationary operator's license issued under IC 9-24-11-3 expires at midnight of the twenty-first birthday of the holder.

SECTION 13. IC 9-24-12-2, AS AMENDED BY HEA 1103-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as provided in section 10 of this chapter, a chauffeur's license issued under this article after December 31, 1996, and before January 1, 2006, expires at midnight of the birthday of the holder that occurs four (4) years following the date of issuance.

(b) After December 31, 2005, and except as provided in **subsection (c) and** sections 10 and 11 of this chapter, a chauffeur's license issued under this article expires at midnight of the birthday of the holder that occurs six (6) years following the date of issuance.

(c) Except as provided in subsection (b) and section 10 of this chapter, a chauffeur's license issued after June 30, 2006, to an

applicant who is at least seventy-five (75) years of age expires at midnight of the birthday of the holder that occurs three (3) years following the date of issuance.

SECTION 14. IC 9-24-12-5, AS AMENDED BY P.L.210-2005, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. An individual applying for renewal of an operator's, a motorcycle operator's, a chauffeur's, or a public passenger chauffeur's license must apply in person at a license branch and do the following:

(1) Pass an eyesight examination.

(2) Pass a written examination if:

(A) the applicant has at least six (6) active points on the applicant's driving record maintained by the bureau; or

(B) the applicant holds a valid operator's license, ~~but~~ has not reached the applicant's twenty-first birthday, **and has active points on the applicant's driving record maintained by the bureau.**

SECTION 15. IC 9-24-12-7, AS AMENDED BY HEA 1103-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) Except as provided in subsection (b) and section 10 of this chapter, a motorcycle operator's license issued after December 31, 1996, and before January 1, 2006, expires at midnight of the birthday of the holder that occurs four (4) years following the date of issuance.

(b) Except as provided in sections 10 and 11 of this chapter, a motorcycle operator's license issued after December 31, 1996, to an applicant who is at least seventy-five (75) years of age expires at midnight of the birthday of the holder that occurs three (3) years following the date of issuance.

(c) After December 31, 2005, except as provided in subsection (b) and section 11 of this chapter, a motorcycle operator's license issued under this article expires at midnight of the birthday of the holder that occurs six (6) years following the date of issuance.

(d) A motorcycle operator endorsement remains in effect for the same term as the license being endorsed and is subject to renewal at and after the expiration of the license in accordance with this chapter.

~~(e) A temporary motorcycle learner's permit is valid for twelve (12) months from date of issuance.~~

SECTION 16. IC 9-29-3-8, AS AMENDED BY P.L.210-2005, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. ~~(a) The service charge for each of the first two thousand (2,000) operator's licenses including motorcycle operator's licenses, issued at a license branch each year is two dollars ($2). This subsection expires December 31, 2005.~~

~~(b) The service charge for each additional operator's license or motorcycle operator's license issued at that license branch each year is one dollar and fifty cents ($1.50). This subsection expires December 31, 2005.~~

~~(c)~~ **(a)** Fifty cents ($0.50) of each service charge collected under this section shall be deposited in the state motor vehicle technology fund established by IC 9-29-16-1.

~~(d)~~ **(b)** ~~After December 31, 2005,~~ The service charge for an operator's license is three dollars ($3).

SECTION 17. IC 9-29-8-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 6.5. The permit fee for a special event permit issued under IC 9-23-2-16 is two hundred fifty dollars ($250).**

SECTION 18. IC 9-29-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. All money collected by the bureau from manufacturers, factory branches, distributors, distributor branches, dealers, automobile auctioneers, factory representatives, distributor representatives, wholesale dealers, transfer dealers, converter manufacturers, or brokers for licenses **and permit fees** under IC 9-23-2 shall be credited to the motor vehicle odometer fund and allocated under IC 9-29-1-5.

SECTION 19. IC 9-29-9-2, AS AMENDED BY P.L.210-2005, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. ~~(a) The fee for a four (4) year operator's license issued under IC 9-24-3 is six dollars ($6). This subsection expires December 31, 2005.~~

~~(b) After December 31, 2005,~~ **(a)** The fee for an operator's license issued under IC 9-24-3 or renewed under IC 9-24-12 to an individual who is:

(1) less than seventy-five (75) years of age is nine dollars ($9); and

(2) at least seventy-five (75) years of age is six dollars ($6)**.**

(b) After June 30, 2006, the fee for a probationary license issued under IC 9-24-11-3(d) is six dollars ($6).

SECTION 20. IC 9-29-9-15.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: **Sec. 15.1. The fee and charge provisions of IC 9-24-16-10 apply notwithstanding IC 9-29-3-14 and section 15 of this chapter.**

SECTION 21. IC 9-29-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. Each application for an original or a renewal school license fee under IC 9-27-4-6 must be accompanied by a:

(1) certified check;

(2) corporate check; or

(3) United States postal money order;

in the amount of one hundred dollars ($100).

SECTION 22. IC 9-29-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. Each application for an original or a renewal instructor's license under IC 9-27-4-6 must be accompanied by a:

(1) certified check;

(2) corporate check; or

(3) United States postal money order;

in the amount of ten dollars ($10).

SECTION 23. IC 10-11-2-26, AS AMENDED BY P.L.210-2005, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 26. (a) The superintendent may assign qualified persons who are not state police officers to supervise or operate permanent or portable weigh stations. A person assigned under this section may stop, inspect, and issue citations to operators of trucks and trailers having a declared gross weight of at least eleven thousand (11,000) pounds and buses at a permanent or portable weigh station or while operating a clearly marked Indiana state police vehicle for violations of the following:

(1) IC 6-1.1-7-10.

(2) IC 6-6-1.1-1202.

(3) IC 6-6-2.5.

(4) IC 6-6-4.1-12.

(5) IC 8-2.1.

(6) IC 9-18.

(7) IC 9-19.

(8) IC 9-20.

(9) IC 9-21-7-2 through IC 9-21-7-11.

(10) IC 9-21-8-41 pertaining to the duty to obey an official traffic control device for a weigh station.

(11) IC 9-21-8-45 through IC 9-21-8-48.

(12) IC 9-21-9.

(13) IC 9-21-15.

(14) IC 9-21-21.

(15) IC 9-24-1-1 through ~~IC 9-24-1-3.~~ **IC 9-24-1-2.**

(16) IC 9-24-1-7.

(17) Except as provided in subsection (c), IC 9-24-1-6, IC 9-24-6-16, IC 9-24-6-17, and IC 9-24-6-18, commercial driver's license.

(18) IC 9-24-4.

(19) IC 9-24-5.

(20) IC 9-24-11-4.

(21) IC 9-24-13-3.

(22) IC 9-24-18-1 through IC 9-24-18-2.

(23) IC 9-25-4-3.

(24) IC 9-28-4.

(25) IC 9-28-5.

(26) IC 9-28-6.

(27) IC 9-29-5-11 through IC 9-29-5-13.

(28) IC 9-29-5-42.

(29) IC 9-29-6-1.

(30) IC 13-17-5-1, IC 13-17-5-2, IC 13-17-5-3, or IC 13-17-5-4.

(31) IC 13-30-2-1.

(b) For the purpose of enforcing this section, a person assigned

under this section may detain a person in the same manner as a law enforcement officer under IC 34-28-5-3.

(c) A person assigned under this section may not enforce IC 9-24-6-14 or IC 9-24-6-15.

SECTION 24. IC 24-4-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. **(a) This section does not apply to a person that holds a special event permit issued under IC 9-23-2-16.**

(b) A person who engages in the business of buying, selling, or trading motor vehicles on Sunday commits a Class B misdemeanor.

SECTION 25. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 9-24-1-3; IC 9-24-12-8.

SECTION 26. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 9-23-2-16 (a), as added by this act, the bureau of motor vehicles shall carry out the duties imposed upon it by IC 9-23-2-16(a), as added by this act, under interim written guidelines approved by the commissioner of the bureau of motor vehicles.**

(b) This SECTION expires the earlier of the following:

(1) The date rules are adopted under IC 9-23-2-16(a), as added by this act.

(2) December 31, 2007.

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

(Reference is to ESB 303 as reprinted March 2, 2006.)

KRUSE	DAVIS
L. LUTZ	T. HARRIS
Senate Conferees	House Conferees

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

CONFERENCE COMMITTEE REPORT
ESB 87–1; filed March 14, 2006, at 10:36 a.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 87 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:

Page 7, delete lines 16 through 40.

Page 8, line 22, delete "15-9-2-4" and insert "15-9-2-4.5".

Page 8, line 24, delete "4" and insert "**4.5**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 87 as reprinted February 24, 2006.)

JACKMAN	GUTWEIN
R. YOUNG	GRUBB
Senate Conferees	House Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1380–1; filed March 14, 2006, at 10:55 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 1380 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 economic development and taxation.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 2-5-1.1-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 19. The legislative services agency, under the direction of the legislative council, shall establish a process that permits small business impact comments concerning proposed legislation to be posted on the general assembly's web site after submission by the office of management and budget under IC 4-3-22-16.**

SECTION 2. IC 4-3-22-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 16. (a) As used in this section, "coordinator" means the following:**

(1) A small business regulatory coordinator (as defined in IC 4-22-2-28.1(b)).

(2) An ombudsman designated under IC 13-28-3-2.

(b) Each coordinator may review proposed legislation affecting the small businesses that are regulated by the agency or that would be regulated by the agency under proposed legislation. A coordinator may submit to the OMB written comments concerning the impact of proposed legislation on small business.

(c) The OMB may review comments received under subsection (b). The OMB may amend the comments. After completing its review, the OMB shall transmit the comments to the legislative services agency for posting on the general assembly's web site. The comments submitted under this section shall be transmitted electronically in a format suitable for posting to the general assembly's web site as determined by the legislative services agency.

SECTION 3. IC 6-2.5-5-41 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 41. (a) As used in this section, "motion picture production" means:**

(1) a feature length film, including a short feature and an independent or studio production, or a documentary; or

(2) a television series, program, or feature;

produced for any combination of theatrical or television viewing, or as a television pilot. The term includes preproduction, production, and postproduction work. However, the term does not include a motion picture that is obscene (under the standard set forth in IC 35-49-2-1) or television coverage of news or athletic events.

(b) Except as provided in subsection (d), a transaction involving tangible personal property is exempt from the state gross retail tax if the person acquiring the property acquires it for the person's direct use in a motion picture production in Indiana after December 31, 2006.

(c) For purposes of this section, the following are not considered to be directly used in the production of a motion picture production:

(1) Food and beverage services.

(2) A vehicle or other means of transportation used to transport actors, crew members, or any other individual involved in a motion picture production.

(3) Fuel, parts, supplies, or other consumables used in a vehicle or other means of transportation used to transport actors, crew members, or any other individual involved in a motion picture production.

(4) Lodging.

(5) Packaging materials.

(d) A person is not entitled to an exemption under this section with respect to a transaction involving tangible personal property acquired for direct use in a motion picture production in Indiana if the transaction occurs after December 31, 2008.

SECTION 4. IC 6-3.1-13-15.5, AS AMENDED BY P.L.197-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2006]: Sec. 15.5. This section applies to an application proposing to retain existing jobs in Indiana. After receipt of an application, the corporation may enter into an agreement with the applicant for a credit under this chapter if the corporation determines that all the following conditions exist:

(1) The applicant's project will retain existing jobs performed by the employees of the applicant in Indiana.

(2) The applicant is engaged in research and development, manufacturing, or business services, according to the NAICS Manual of the United States Office of Management and Budget.

(3) The average compensation (including benefits) provided to the applicant's employees during the applicant's previous fiscal year exceeds **the greater of the following:**

~~(A) for an application submitted before January 1, 2006, the average compensation paid during that same period to all employees in the county in which the applicant's business is located by at least five percent (5%); or~~

~~(B) for an application submitted after December 31, 2005, the amount specified by the calculation associated with one (1) of the following descriptions that characterizes the number of businesses in the NAICS industry sector to which the applicant's business belongs:~~

~~(i)~~ **(A)** If there is more than one (1) business in the same NAICS industry sector **as the applicant's business** in the county in which the applicant's business is located, ~~determine~~ the average compensation paid during that same period to all employees working in ~~the same~~ **that** NAICS industry sector in ~~the~~ **that** county ~~in which the applicant's business is located~~ multiplied by one hundred five percent (105%).

~~(ii)~~ **(B)** If ~~the applicant's business is the only business in the same NAICS industry sector in the county in which the applicant's business is located but~~ there is more than one (1) business in the same NAICS industry sector **as the applicant's business** in Indiana, ~~determine~~ the average compensation paid during that same period to all employees working in ~~the~~ **that** NAICS industry sector throughout Indiana multiplied by one hundred five percent (105%).

~~(iii) If the applicant's business is the only business in the same NAICS industry sector in Indiana, determine~~ **(C)** The compensation for that same period corresponding to the federal minimum wage multiplied by two hundred percent (200%).

(4) The applicant employs at least ~~seventy-five (75)~~ **thirty-five (35)** employees in Indiana.

(5) The applicant has prepared a plan for the use of the credits under this chapter for:

(A) investment in facility improvements or equipment and machinery upgrades, repairs, or retrofits; or

(B) other direct business related investments, including but not limited to training.

(6) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project, and not receiving the tax credit will increase the likelihood of the applicant reducing jobs in Indiana.

(7) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.

(8) The applicant's business and project are economically sound and will benefit the people of Indiana by increasing or maintaining opportunities for employment and strengthening the economy of Indiana.

(9) The communities affected by the potential reduction in jobs or relocation of jobs to another site outside Indiana have committed local incentives with respect to the retention of jobs in an amount determined by the corporation. For purposes of this subdivision, local incentives include, but are not limited to, cash grants, tax abatements, infrastructure improvements, investment in facility rehabilitation, construction, and training investments.

(10) The credit is not prohibited by section 16 of this chapter.

(11) If the business is located in a community revitalization enhancement district established under IC 36-7-13 or a certified technology park established under IC 36-7-32, the legislative body of the political subdivision establishing the district or park has adopted an ordinance recommending the granting of a credit amount that is at least equal to the credit amount provided in the agreement.

SECTION 5. IC 6-3.1-13-18, AS AMENDED BY P.L.197-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2006]: Sec. 18. (a) The corporation shall determine the amount and duration of a tax credit awarded under this chapter. The duration of the credit may not exceed ten (10) taxable years. The credit may be stated as a percentage of the incremental income tax withholdings attributable to the applicant's project and may include a fixed dollar limitation. In the case of a credit awarded for a project to create new jobs in Indiana, the credit amount may not exceed the incremental income tax withholdings. However, the credit amount claimed for a taxable year may exceed the taxpayer's state tax liability for the taxable year, in which case the excess may, at the discretion of the corporation, be refunded to the taxpayer.

(b) For state fiscal ~~years 2004, 2005,~~ **year** 2006 and ~~2007,~~ **each state fiscal year thereafter,** the aggregate amount of credits awarded under this chapter for projects to retain existing jobs in Indiana may not exceed ~~five~~ **ten** million dollars ~~($5,000,000)~~ **($10,000,000)** per year.

SECTION 6. IC 6-3.1-26-8, AS AMENDED BY P.L.199-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) As used in this chapter, "qualified investment" means the amount of the taxpayer's expenditures in Indiana for:

(1) the purchase of new telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, finishing, distribution, transportation, or logistical distribution equipment;

(2) the purchase of new computers and related equipment;

(3) costs associated with the modernization of existing telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, finishing, distribution, transportation, or logistical distribution facilities;

(4) onsite infrastructure improvements;

(5) the construction of new telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, finishing, distribution, transportation, or logistical distribution facilities;

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

(7) costs associated with the construction of special purpose buildings and foundations for use in the computer, software, biological sciences, or telecommunications industry; and

(8) costs associated with the purchase ~~before January 1, 2008,~~ of machinery, equipment, or special purpose buildings used to make motion pictures or audio productions;

that are certified by the corporation under this chapter as being eligible for the credit under this chapter.

(b) The term does not include property that can be readily moved outside Indiana.

SECTION 7. IC 6-3.1-26-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 26. (a) This chapter applies to taxable years beginning after December 31, 2003.

(b) Notwithstanding the other provisions of this chapter, ~~a taxpayer is not entitled to~~ **the corporation may not approve** a credit for a qualified investment made after December 31, ~~2007.~~ **2011.** However, this section may not be construed to prevent a taxpayer from carrying an unused tax credit attributable to a qualified investment made before January 1, ~~2008,~~ **2012,** forward to a taxable year beginning after December 31, ~~2007,~~ **2011,** in the manner provided by section 15 of this chapter.

SECTION 8. IC 6-3.1-30-2, AS ADDED BY P.L.193-2005, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 2. As used in this chapter, "eligible business" means a business that:

(1) is engaged in either interstate or intrastate commerce;

(2) maintains a corporate headquarters at a location outside Indiana;

(3) has not previously maintained a corporate headquarters at a location in Indiana;

(4) had annual worldwide revenues of at least ~~five~~ **one** hundred million dollars ~~($500,000,000)~~ **($100,000,000)** for the taxable year immediately preceding the business's application for a tax credit under section 12 of this chapter; and

(5) commits contractually to relocating its corporate headquarters to Indiana.

SECTION 9. IC 6-3.1-30-8, AS ADDED BY P.L.193-2005, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 8. **(a)** A taxpayer that:

(1) is an eligible business;

(2) completes a qualifying project; ~~and~~

(3) incurs relocation costs; **and**

(4) employees at least seventy-five (75) employees in Indiana;

is entitled to a credit against the taxpayer's state tax liability for the taxable year in which the relocation costs are incurred. The credit

allowed under this section is equal to the amount determined under section 9 of this chapter.

(b) For purposes of establishing the employment level required by subsection (a)(4), a taxpayer may include:

(1) individuals who:

(A) were employed in Indiana by the taxpayer before the taxpayer commenced a qualifying project; and

(B) remain employed in Indiana after the completion of the taxpayer's qualifying project; and

(2) individuals who:

(A) were not employed in Indiana by the taxpayer before the taxpayer commenced a qualifying project; and

(B) are employed in Indiana by the taxpayer as a result of the completion of the taxpayer's qualifying project.

SECTION 10. IC 6-3.1-30-12, AS ADDED BY P.L.193-2005, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 12. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department:

(1) proof of the taxpayer's relocation costs;

(2) proof that the taxpayer is employing in Indiana the number of employees required by section 8 of this chapter; and

(3) all **other** information that the department determines is necessary for the calculation of the credit provided by this chapter.

SECTION 11. IC 6-3.5-7-13.1, AS AMENDED BY P.L.118-2005, SECTION 2, AND AS AMENDED BY P.L.214-2005, SECTION 21, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13.1. (a) The fiscal officer of each county, city, or town for a county in which the county economic development tax is imposed shall establish an economic development income tax fund. Except as provided in sections 23, 25, 26, and 27 of this chapter, the revenue received by a county, city, or town under this chapter shall be deposited in the unit's economic development income tax fund.

(b) Except as provided in sections 15, 23, 25, 26, and 27 of this chapter, revenues from the county economic development income tax may be used as follows:

(1) By a county, city, or town for economic development projects, for paying, notwithstanding any other law, under a written agreement all or a part of the interest owed by a private developer or user on a loan extended by a financial institution or other lender to the developer or user if the proceeds of the loan are or are to be used to finance an economic development project, for the retirement of bonds under section 14 of this chapter for economic development projects, for leases under section 21 of this chapter, or for leases or bonds entered into or issued prior to the date the economic development income tax was imposed if the purpose of the lease or bonds would have qualified as a purpose under this chapter at the time the lease was entered into or the bonds were issued.

(2) By a county, city, or town for:

(A) the construction or acquisition of, or remedial action with respect to, a capital project for which the unit is empowered to issue general obligation bonds or establish a fund under any statute listed in IC 6-1.1-18.5-9.8;

(B) the retirement of bonds issued under any provision of Indiana law for a capital project;

(C) the payment of lease rentals under any statute for a capital project;

(D) contract payments to a nonprofit corporation whose primary corporate purpose is to assist government in planning and implementing economic development projects;

(E) operating expenses of a governmental entity that plans or implements economic development projects;

(F) to the extent not otherwise allowed under this chapter, funding substance removal or remedial action in a designated unit; or

(G) funding of a revolving fund established under IC 5-1-14-14.

(3) By a county, city, or town for any lawful purpose for which money in any of its other funds may be used.

~~*(3)*~~ **(4)** *By a city or county described in IC 36-7.5-2-3(b) for making transfers required by IC 36-7.5-4-2. If the county economic development income tax rate is increased after April 30, 2005, in a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), the first three million five hundred thousand dollars ($3,500,000) of the tax revenue that results each year from the tax rate increase shall be used by the county only to make the county's transfer required by IC 36-7.5-4-2. The first three million five hundred thousand dollars ($3,500,000) of the tax revenue that results each year from the tax rate increase shall be paid by the county treasurer to the treasurer of the northwest Indiana regional development authority under IC 36-7.5-4-2 before certified distributions are made to the county or any cities or towns in the county under this chapter from the tax revenue that results each year from the tax rate increase. In a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), all of the tax revenue that results each year from the tax rate increase that is in excess of the first three million five hundred thousand dollars ($3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for additional homestead credits under subdivision* ~~*(4).*~~ **(5).**

~~*(4)*~~ **(5)** *This subdivision applies only in a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000). Except as otherwise provided, the procedures and definitions in IC 6-1.1-20.9 apply to this subdivision. All of the tax revenue that results each year from a tax rate increase described in subdivision* ~~*(3)*~~ ***(4)*** *that is in excess of the first three million five hundred thousand dollars ($3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for additional homestead credits under this subdivision. The following apply to additional homestead credits provided under this subdivision:*

(A) The additional homestead credits must be applied uniformly to increase the homestead credit under IC 6-1.1-20.9 for homesteads in the county, city, or town.

(B) The additional homestead credits shall be treated for all purposes as property tax levies. The additional homestead credits do not reduce the basis for determining the state property tax replacement credit under IC 6-1.1-21 or the state homestead credit under IC 6-1.1-20.9.

(C) The additional homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(D) The department of local government finance shall determine the additional homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this subdivision to provide additional homestead credits in that year.

~~*(5)*~~ **(6)** *This subdivision applies only in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). Except as otherwise provided, the procedures and definitions in IC 6-1.1-20.9 apply to this subdivision. A county or a city or town in the county may use county economic development income tax revenue to provide additional homestead credits in the county, city, or town. The following apply to additional homestead credits provided under this subdivision:*

(A) The county, city, or town fiscal body must adopt an ordinance authorizing the additional homestead credits. The ordinance must:

(i) be adopted before September 1 of a year to apply to property taxes first due and payable in the following year; and

(ii) specify the amount of county economic development income tax revenue that will be used to provide additional homestead credits in the following year.

(B) A county, city, or town fiscal body that adopts an ordinance under this subdivision must forward a copy of the ordinance to the county auditor and the department of local government finance not more than thirty (30) days after the ordinance is adopted.

(C) The additional homestead credits must be applied uniformly to increase the homestead credit under IC 6-1.1-20.9 for homesteads in the county, city, or town.

(D) The additional homestead credits shall be treated for all purposes as property tax levies. The additional homestead credits do not reduce the basis for determining the state property tax replacement credit under IC 6-1.1-21 or the state homestead credit under IC 6-1.1-20.9.

(E) The additional homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(F) The department of local government finance shall determine the additional homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this subdivision to provide additional homestead credits in that year.

(7) For a regional venture capital fund established under section 13.5 of this chapter or a local venture capital fund established under section 13.6 of this chapter.

(c) As used in this section, an economic development project is any project that:

(1) the county, city, or town determines will:

(A) promote significant opportunities for the gainful employment of its citizens;

(B) attract a major new business enterprise to the unit; or

(C) retain or expand a significant business enterprise within the unit; and

(2) involves an expenditure for:

(A) the acquisition of land;

(B) interests in land;

(C) site improvements;

(D) infrastructure improvements;

(E) buildings;

(F) structures;

(G) rehabilitation, renovation, and enlargement of buildings and structures;

(H) machinery;

(I) equipment;

(J) furnishings;

(K) facilities;

(L) administrative expenses associated with such a project, including contract payments authorized under subsection (b)(2)(D);

(M) operating expenses authorized under subsection (b)(2)(E); or

(N) to the extent not otherwise allowed under this chapter, substance removal or remedial action in a designated unit;

or any combination of these.

(d) If there are bonds outstanding that have been issued under section 14 of this chapter or leases in effect under section 21 of this chapter, a county, city, or town may not expend money from its economic development income tax fund for a purpose authorized under subsection (b)(3) in a manner that would adversely affect owners of the outstanding bonds or payment of any lease rentals due.

SECTION 12. IC 6-3.5-7-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 13.5. (a) The general assembly finds that counties and municipalities in Indiana have a need to foster economic development, the development of new technology, and industrial and commercial growth. The general assembly finds that it is necessary and proper to provide an alternative method for counties and municipalities to foster the following:**

(1) Economic development.

(2) The development of new technology.

(3) Industrial and commercial growth.

(4) Employment opportunities.

(5) The diversification of industry and commerce.

The fostering of economic development and the development of new technology under this section or section 13.6 of this chapter for the benefit of the general public, including industrial and commercial enterprises, is a public purpose.

(b) The fiscal bodies of two (2) or more counties or municipalities may, by resolution, do the following:

(1) Determine that part or all the taxes received by the units under this chapter should be combined to foster:

(A) economic development;

(B) the development of new technology; and

(C) industrial and commercial growth.

(2) Establish a regional venture capital fund.

(c) Each unit participating in a regional venture capital fund established under subsection (b) may deposit the following in the fund:

(1) Taxes distributed to the unit under this chapter.

(2) The proceeds of public or private grants.

(d) A regional venture capital fund shall be administered by a governing board. The expenses of administering the fund shall be paid from money in the fund. The governing board shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited into the fund. The fund is subject to an annual audit by the state board of accounts. The fund shall bear the full costs of the audit.

(e) The fiscal body of each participating unit shall approve an interlocal agreement created under IC 36-1-7 establishing the terms for the administration of the regional venture capital fund. The terms must include the following:

(1) The membership of the governing board.

(2) The amount of each unit's contribution to the fund.

(3) The procedures and criteria under which the governing board may loan or grant money from the fund.

(4) The procedures for the dissolution of the fund and for the distribution of money remaining in the fund at the time of the dissolution.

(f) An interlocal agreement made by the participating units under subsection (e) must provide that:

(1) each of the participating units is represented by at least one (1) member of the governing board; and

(2) the membership of the governing board is established on a bipartisan basis so that the number of the members of the governing board who are members of one (1) political party may not exceed the number of members of the governing board required to establish a quorum.

(g) A majority of the governing board constitutes a quorum, and the concurrence of a majority of the governing board is necessary to authorize any action.

(h) An interlocal agreement made by the participating units under subsection (e) must be submitted to the Indiana economic development corporation for approval before the participating units may contribute to the fund.

(i) A majority of members of a governing board of a regional venture capital fund established under this section must have at least five (5) years of experience in business, finance, or venture capital.

(j) The governing board of the fund may loan or grant money from the fund to a private or public entity if the governing board finds that the loan or grant will be used by the borrower or grantee for at least one (1) of the following economic development purposes:

(1) To promote significant employment opportunities for the residents of the units participating in the regional venture capital fund.

(2) To attract a major new business enterprise to a participating unit.

(3) To develop, retain, or expand a significant business enterprise in a participating unit.

(k) The expenditures of a borrower or grantee of money from a regional venture capital fund that are considered to be for an economic development purpose include expenditures for any of the following:

(1) Research and development of technology.

(2) Job training and education.

(3) Acquisition of property interests.

(4) Infrastructure improvements.

(5) New buildings or structures.

(6) Rehabilitation, renovation, or enlargement of buildings or structures.

(7) Machinery, equipment, and furnishings.

(8) Funding small business development with respect to:

(A) prototype products or processes;

(B) marketing studies to determine the feasibility of new products or processes; or

(C) business plans for the development and production of new products or processes.

SECTION 13. IC 6-3.5-7-13.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 13.6. (a) The fiscal body of a county or municipality may, by resolution, establish a local venture capital fund.**

(b) A unit establishing a local venture capital fund under subsection (a) may deposit the following in the fund:

(1) Taxes distributed to the unit under this chapter.

(2) The proceeds of public or private grants.

(c) A local venture capital fund shall be administered by a governing board. The expenses of administering the fund shall be paid from money in the fund. The governing board shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited into the fund. The fund is subject to an annual audit by the state board of accounts. The fund shall bear the full costs of the audit.

(d) The fiscal body of a unit establishing a local venture capital fund under subsection (a) shall establish the terms for the administration of the local venture capital fund. The terms must include the following:

(1) The membership of the governing board.

(2) The amount of the unit's contribution to the fund.

(3) The procedures and criteria under which the governing board may loan or grant money from the fund.

(4) The procedures for the dissolution of the fund and for the distribution of money remaining in the fund at the time of the dissolution.

(e) A unit establishing a local venture capital fund under subsection (a) must be represented by at least one (1) member of the governing board.

(f) The membership of the governing board must be established on a bipartisan basis so that the number of the members of the governing board who are members of one (1) political party may not exceed the number of members of the governing board required to establish a quorum.

(g) A majority of the governing board constitutes a quorum, and the concurrence of a majority of the governing board is necessary to authorize any action.

(h) The terms established under subsection (d) for the administration of the local venture capital fund must be submitted to the Indiana economic development corporation for approval before a unit may contribute to the fund.

(i) A majority of members of a governing board of a local venture capital fund established under this section must have at least five (5) years of experience in business, finance, or venture capital.

(j) The governing board of the fund may loan or grant money from the fund to a private or public entity if the governing board finds that the loan or grant will be used by the borrower or grantee for at least one (1) of the following economic development purposes:

(1) To promote significant employment opportunities for the residents of the unit establishing the local venture capital fund.

(2) To attract a major new business enterprise to the unit.

(3) To develop, retain, or expand a significant business enterprise in the unit.

(k) The expenditures of a borrower or grantee of money from a local venture capital fund that are considered to be for an economic development purpose include expenditures for any of the following:

(1) Research and development of technology.

(2) Job training and education.

(3) Acquisition of property interests.

(4) Infrastructure improvements.

(5) New buildings or structures.

(6) Rehabilitation, renovation, or enlargement of buildings or structures.

(7) Machinery, equipment, and furnishings.

(8) Funding small business development with respect to:

(A) prototype products or processes;

(B) marketing studies to determine the feasibility of new products or processes; or

(C) business plans for the development and production of new products or processes.

SECTION 14. IC 27-5.1-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 8. The following provisions apply to standard companies and extended companies:

(1) IC 27-1-3.

(2) IC 27-1-3.1.

(3) IC 27-1-5-3.

(4) IC 27-1-7-14 through IC 27-1-7-16.

(5) IC 27-1-7-21 through IC 27-1-7-23.

(6) IC 27-1-9.

(7) IC 27-1-10.

(8) IC 27-1-13-3 through IC 27-1-13-4.

(9) IC 27-1-13-6 through IC 27-1-13-9.

(10) IC 27-1-15.6.

(11) IC 27-1-18-2.

~~(11)~~ **(12)** IC 27-1-20-1.

~~(12)~~ **(13)** IC 27-1-20-4.

~~(13)~~ **(14)** IC 27-1-20-6.

~~(14)~~ **(15)** IC 27-1-20-9 through IC 27-1-20-11.

~~(15)~~ **(16)** IC 27-1-20-14.

~~(16)~~ **(17)** IC 27-1-20-19 through IC 27-1-20-21.3.

~~(17)~~ **(18)** IC 27-1-20-23.

~~(18)~~ **(19)** IC 27-1-20-30.

~~(19)~~ **(20)** IC 27-1-22.

~~(20)~~ **(21)** IC 27-4-1.

~~(21)~~ **(22)** Except as provided in IC 27-6-1.1-6, IC 27-6-1.1-2.

~~(22)~~ **(23)** IC 27-6-2.

~~(23)~~ **(24)** IC 27-7-2.

~~(24)~~ **(25)** IC 27-9.

~~(25)~~ **(26)** IC 34-30-17.

SECTION 15. [EFFECTIVE JANUARY 1, 2007] **IC 6-2.5-5-41, as added by this act, applies to transactions occurring after December 31, 2006.**

SECTION 16. [EFFECTIVE APRIL 1, 2006] **IC 6-3.1-13-15.5, as amended by this act, applies to applications for credits filed under IC 6-3.1-13 after March 31, 2006.**

SECTION 17. [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: **(a) The definitions set forth in IC 6-3.1-30, including IC 6-3.1-30-2, as amended by this act, apply throughout this SECTION.**

(b) Notwithstanding the effective dates included in P.L.193-2005, SECTION 21 of P.L.193-2005 takes effect January 1, 2006, and not January 1, 2007.

(c) Notwithstanding SECTION 24 of P.L.193-2005, an eligible business is entitled to a credit under IC 6-3.1-30 for relocation costs that are incurred for a qualifying project during a taxable year beginning after December 31, 2005.

(d) Notwithstanding SECTION 21 of P.L.193-2005 and SECTION 24 of P.L.193-2005, IC 6-3.1-20-2, IC 6-3.1-30-8, and IC 6-3.1-30-12, all as amended by this act, apply to taxable years beginning after December 31, 2005.

SECTION 18. [EFFECTIVE JANUARY 1, 2006

(RETROACTIVE)] **IC 27-5.1-2-8, as amended by this act, applies only to taxable years beginning after December 31, 2005.**

SECTION 19. **An emergency is declared for this act.**

(Reference is to EHB 1380 as printed February 14, 2006.)

J. SMITH	FORD
AUSTIN	HUME
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1323–2; filed March 14, 2006, at 11:06 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 1323 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 9-20-2-2, AS AMENDED BY P.L.210-2005, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in this section, "farm vehicle loaded with a farm product" includes a truck hauling unprocessed leaf tobacco.

(b) Except for interstate highway travel, this article does not apply to the following:

(1) Machinery or equipment used in highway construction or maintenance by the Indiana department of transportation, counties, or municipalities.

(2) Implements of agriculture when used during farming operations or when constructed so that the implements can be moved without material damage to the highways.

(3) Farm drainage machinery.

(c) This article does not apply to firefighting apparatus owned or operated by a political subdivision or volunteer fire department (as defined in IC 36-8-12-2).

(d) Except for interstate highway travel, this article does not limit the width or height of a farm vehicle loaded with a farm product.

SECTION 2. IC 9-20-5-4, AS AMENDED BY SEA 154-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. **(a)** In addition to the highways established and designated as heavy duty highways under section 1 of this chapter, the following highways are designated as extra heavy duty highways:

(1) Highway 41, from 129th Street in Hammond to Highway 312.

(2) Highway 312, from Highway 41 to State Road 912.

(3) Highway 912, from Michigan Avenue in East Chicago to the U.S. 20 interchange.

(4) Highway 20, from Clark Road in Gary to Highway 39.

(5) Highway 12, from one-fourth (1/4) mile west of the Midwest Steel entrance to Highway 249.

(6) Highway 249, from Highway 12 to Highway 20.

(7) Highway 12, from one and one-half (1 ½) miles east of the Bethlehem Steel entrance to Highway 149.

(8) Highway 149, from Highway 12 to a point thirty-six hundredths (.36) of a mile south of Highway 20.

(9) Highway 39, from Highway 20 to the Michigan state line.

(10) Highway 20, from Highway 39 to Highway 2.

(11) Highway 2, from Highway 20 to Highway 31.

(12) Highway 31, from the Michigan state line to Highway 23.

(13) Highway 23, from Highway 31 to Olive Street in South Bend.

(14) Highway 35, from South Motts Parkway thirty-four hundredths (.34) of a mile southeast to the point where Highway 35 intersects with the overpass for Highway 20/Highway 212.

(15) State Road 249 from U.S. 12 to the point where State Road 249 intersects with Nelson Drive at the Port of Indiana.

(16) State Road 912 from the 15th Avenue and 169th Street interchange one and six hundredths (1.06) miles north to the U.S. 20 interchange.

(17) U.S. 20 from the State Road 912 interchange three and seventeen hundredths (3.17) miles east to U.S. 12.

(18) U.S. 6 from the Ohio state line to State Road 9.

(19) U.S. 30 from Allen County/Whitley County Line Road (also known as County Road 800 East) to State Road 9.

(20) State Road 9 from U.S. 30 to U.S. 6.

(21) State Road 39 from Interstate 80 to U.S. 20.

(b) For purposes of this subsection, "designated highway" refers to U.S. 6 from State Road 9 to State Road 15 and then north on State Road 15 to the Michigan state line. The designated highway is designated as an extra heavy duty highway beginning July 1 after the Indiana department of transportation completes all improvements, upgrades, and rehabilitation necessary to make the designated highway (including all bridges on the designated highway) suitable to safely bear loads permitted by law for an extra heavy duty highway. Not later than November 1 of each year, the Indiana department of transportation shall provide a report in an electronic format under IC 5-14-6 to the legislative council describing the progress made toward completing the work described by this subsection. The report is not required for any year after the year all work is completed.

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

(Reference is to EHB 1323 as printed February 17, 2006.)

DODGE	KRUSE
MOSES	MRVAN
House Conferees	Senate Conferees

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

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 2:35 p.m. with Representative Benjamin E. GiaQuinta, who is retiring from legislative service, in the Chair.

RESOLUTIONS ON SECOND READING

House Resolution 33

The Chair handed down on its passage House Resolution 33, introduced by Representative Koch:

A HOUSE RESOLUTION in support of the United States remaining a leader in space exploration and development.

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

Representative GiaQuinta yielded the gavel to the Speaker.

RESOLUTIONS ON FIRST READING

House Resolution 88

Representatives Thompson and Walorski introduced House Resolution 88:

A HOUSE RESOLUTION urging the establishment of an interim study committee to study the social, emotional, and behavioral health screening of children.

Whereas, Under IC 20-19-5-1, the department of education, in cooperation with the department of child services, the department of correction, and the division of mental health and addiction, shall develop and coordinate a child's social, emotional, and behavioral health plan; and

Whereas, The state of Indiana should fully study the uses of screenings to develop and coordinate a health plan and ensure that parents are given adequate notice of their rights: 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 social, emotional, behavioral health screening of children.

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 referred to the Committee on Rules and Legislative Procedures.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
EHB 1240–1; filed March 14, 2006, at 11:38 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 1240 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:

Page 1, delete lines 1 through 11.

Page 1, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 2. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 20-18-2 apply to this SECTION.**

(b) Before November 1, 2006, the department and the state board shall review the current statewide testing program and develop a long term plan that is subject to the approval of the state board for the transition to a testing program with the following objectives:

(1) To provide a long term plan for student assessments.

(2) To review the existing annual tests for students in grades 3 through 10.

(3) To develop a testing program that:

(A) reflects a student's proficiency in and mastery of the state's academic standards;

(B) is, to the greatest extent possible, more concise, less time consuming, and less expensive to administer than the current tests while maintaining the current level of rigor of the tests;

(C) provides prompt results to students, parents, and teachers;

(D) explores all options for timing and use of summative tests, including giving a summative test in the fall or the spring;

(E) measures individual student growth from school year to school year;

(F) explores all options for diagnostic tests for use by teachers to support ongoing remediation;

(G) is compatible with a transition to the use of online testing; and

(H) assesses student proficiency in written communication.

(4) To move to the use of online assessments for Core 40 subjects.

(c) In developing the plan under subsection (b), the department and the state board shall:

(1) solicit information from educators, administrators, parents, and the public concerning the program;

(2) look at tests and testing practices in use by or in development by other states;

(3) solicit information from testing companies concerning:

(A) parameters and costs of tests;

(B) steps to be taken to ensure the validity and reliability of the tests;

(C) steps to move the longitudinal data from the current testing program to the new testing program; and

(D) any other information the department or the state board considers useful in developing the testing program;

(4) develop a plan to move to online tests;

(5) determine the most effective means to assess student proficiency in written communication; and

(6) include specifications for diagnostic tests for use by teachers during the school year.

(d) Before November 1, 2006, the state board shall approve and submit a report concerning the testing program to the budget committee, the legislative council, and the office of management and budget. The report must explain the testing program and provide the estimated costs for the program beginning with tests given during the 2007-2008 school year. The report to the legislative council must be in an electronic format under IC 5-14-6.

(e) A contract for testing students during the 2006-2007 school year may be issued. However, contracts for testing students during any subsequent school year must follow the state board's approval of the testing plan.

(f) This SECTION expires July 1, 2008.

SECTION 3. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding P.L.246-2005, SECTION 9, Subsection B, stipends for mentor teachers may be paid from the appropriations made FOR THE DEPARTMENT OF EDUCATION, PROFESSIONAL STANDARDS DIVISION, for FY 2005-2006 and FY 2006-2007, or from funds provided to the department of education by private donors.**

(b) This SECTION expires July 1, 2007.".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1240, Printer's Error, printed February 17, 2006.)

BEHNING	LUBBERS
PORTER	ROGERS
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1214–1; filed March 14, 2006, at 11:39 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 1214 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 6-2.5-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~For purposes of~~ **(a) The definitions in this section apply throughout** this chapter.

(b) "Kerosene" has the same meaning as the definition contained in IC 16-44-2-2.

(c) "Gasoline" has the same meaning as the definition contained in IC 6-6-1.1-103.

(d) "Special fuel" has the same meaning as the definition contained in IC 6-6-2.5-22.

(e) "Unit" means the unit of measure, such as a gallon or a liter, by which gasoline or special fuel is sold.

(f) "Metered pump" means a stationary pump which is capable of metering the amount of gasoline or special fuel dispensed from it and which is capable of simultaneously calculating and displaying the price of the gasoline or special fuel dispensed.

(g) "Indiana gasoline tax" means the tax imposed under IC 6-6-1.1.

(h) "Indiana special fuel tax" means the tax imposed under IC 6-6-2.5.

(i) "Federal gasoline tax" means the excise tax imposed under Section 4081 of the Internal Revenue Code.

(j) "Federal special fuel tax" means the excise tax imposed under Section 4041 of the Internal Revenue Code.

(k) "Price per unit before the addition of state and federal taxes" means an amount which equals the remainder of:

~~(i)~~ **(1)** the total price per unit; minus

~~(ii)~~ **(2)** the state gross retail, Indiana gasoline or special fuel, and federal gasoline or special fuel taxes which are part of the total price per unit.

(l) "Total price per unit" means the price per unit at which gasoline or special fuel is actually sold, including the state gross retail, Indiana gasoline or special fuel, and federal gasoline or special fuel taxes which are part of the sales price.

(m) "Distributor" means a person who is the first purchaser of gasoline from a refiner, a terminal operator, or supplier, regardless of the location of the purchase.

(n) "Prepayment rate" means a rate per gallon of gasoline ~~rounded to the nearest one-tenth of one cent ($0.001),~~ determined by the

department ~~by determining the product of:~~

~~(1) the statewide average retail price per gallon of gasoline excluding the Indiana and federal gasoline taxes and the Indiana gross retail tax; multiplied by~~

~~(2) the state gross retail tax rate; multiplied by~~

~~(3) ninety percent (90%).~~

under section 14 of this chapter for use in calculating prepayment amounts of gross retail tax under section 9 of this chapter.

(o) "Purchase or shipment" means a sale or delivery of gasoline, but does not include:

(1) an exchange transaction between refiners, terminal operators, or a refiner and terminal operator; or

(2) a delivery by pipeline, ship, or barge to a refiner or terminal operator.

(p) "Qualified distributor" means a distributor who:

(1) is a licensed distributor under IC 6-6-1.1; and

(2) holds an unrevoked permit issued under section 7 of this chapter.

(q) "Refiner" means a person who manufactures or produces gasoline by any process involving substantially more than the blending of gasoline.

(r) "Terminal operator" means a person that:

(1) stores gasoline in tanks and equipment used in receiving and storing gasoline from interstate or intrastate pipelines pending wholesale bulk reshipment; or

(2) stores gasoline at a boat terminal transfer that is a dock or tank, or equipment contiguous to a dock or tank, including equipment used in the unloading of gasoline from a ship or barge and used in transferring the gasoline to a tank pending wholesale bulk reshipment.

SECTION 2. IC 6-2.5-7-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) Before June 10 and December 10 of each year, the department shall determine and provide to:

(1) each refiner and terminal operator and each qualified distributor known to the department to be required to collect prepayments of the state gross retail tax under this chapter; and

(2) any other person that makes a request;

a notice of the prepayment rate to be used during the following six (6) month period. The department shall also have the prepayment rate published in the June and December issues of the Indiana Register.

(b) In determining the prepayment rate under this section, the department shall use the most recent retail price of gasoline available to the department.

(c) The prepayment rate per gallon of gasoline determined by the department under this section is the amount per gallon of gasoline determined under STEP FOUR of the following formula:

STEP ONE: Determine the statewide average retail price per gallon of gasoline, excluding the Indiana and federal gasoline taxes and the Indiana gross retail tax.

STEP TWO: Determine the product of the following:

(A) The STEP ONE amount.

(B) The Indiana gross retail tax rate.

(C) Ninety percent (90%).

STEP THREE: Determine the lesser of:

(A) the STEP TWO result; or

(B) the product of:

(i) the prepayment rate in effect on the day immediately preceding the day on which the prepayment rate is redetermined under this section; multiplied by

(ii) one hundred twenty-five percent (125%).

STEP FOUR: Round the STEP THREE result to the nearest one-tenth of one cent ($0.001).

SECTION 3. IC 6-6-1.1-515 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 515. The administrator may require that all reports required to be filed under section 209, 501, 502, 504, or 606 of this chapter must be filed in an electronic format prescribed by the administrator.**

SECTION 4. IC 6-6-2.5-72 IS ADDED TO THE CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 72. The administrator may require that all reports required to be filed under section 56.5, 57, or 60 of this chapter must be filed in an electronic format prescribed by the administrator.**

SECTION 5. IC 6-6-4.1-4.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4.8. (a) This section applies only to a claim for a proportional use credit under section 4(d) or 4.5(d) of this chapter for taxes first due and payable after July 31, 1999.

(b) In order to obtain a proportional use credit against taxes imposed under section 4 or 4.5 of this chapter, a carrier must file a claim with the department. The claim must be submitted on a form prescribed by the department and must be filed with the quarterly return for the taxable period for which the proportional use credit is claimed. A carrier is not entitled to a proportional use credit under section 4(d) or 4.5(d) of this chapter unless the carrier:

(1) has paid in full the taxes to which the credit applies; **and**

(2) has filed a claim for the credit on or before the due date of the corresponding quarterly return for the taxable period for which the proportional use credit is claimed.

A credit approved under this section shall, subject to this section, be refunded to the carrier without interest.

(c) The department shall determine the aggregate amount of proportional use credits claimed under section 4(d) or 4.5(d) of this chapter for each quarter. The department may approve the full amount of a proportional use credit claimed by a carrier if the aggregate amount of proportional use credits claimed for the quarter and for the fiscal year do not exceed the limits set forth in subsection (d). If the aggregate amount of proportional use credits claimed in a quarter exceeds the limits set forth in subsection (d), the department shall pay the claims for that quarter on a pro rata basis.

(d) The department may not approve more than three million five hundred thousand dollars ($3,500,000) of proportional use credits under this section in a state fiscal year. In addition, the amount of proportional use credits the department may approve under this section for a quarter may not exceed the following:

(1) For the quarter ending September 30 of a year, an amount equal to one million three hundred seventy-five thousand dollars ($1,375,000).

(2) For the quarter ending December 31 of a year, an amount equal to:

(A) six hundred twenty-five thousand dollars ($625,000); plus

(B) the greater of zero (0) or the result of:

(i) the limit determined for the previous quarter under this subsection; minus

(ii) the aggregate amount of claims approved for the previous quarter.

(3) For the quarter ending March 31 of a year, an amount equal to:

(A) six hundred twenty-five thousand dollars ($625,000); plus

(B) the greater of zero (0) or the result of:

(i) the limit determined for the previous quarter under this subsection; minus

(ii) the aggregate amount of claims approved for the previous quarter.

(4) For the quarter ending June 30 of a year, an amount equal to:

(A) eight hundred seventy-five thousand dollars ($875,000); plus

(B) the greater of zero (0) or the result of:

(i) the limit determined for the previous quarter under this subsection; minus

(ii) the aggregate amount of claims approved for the previous quarter.

SECTION 6. IC 6-8.1-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) The department shall establish a registration center to service owners of commercial motor vehicles.

(b) The registration center is under the supervision of the department through the motor carrier services division.

(c) An owner or operator of a commercial motor vehicle may apply

to the registration center for the following:

(1) Vehicle registration (IC 9-18).

(2) Motor carrier fuel tax annual permit.

(3) Proportional use credit certificate (IC 6-6-4.1-4.7).

(4) Certificate of operating authority.

(5) Oversize vehicle permit (IC 9-20-3).

(6) Overweight vehicle permit (IC 9-20-4).

(7) Payment of the commercial vehicle excise tax imposed under IC 6-6-5.5.

(d) The commissioner may deny an application described in subsection (c) if the applicant fails to do any of the following with respect to a listed tax:

(1) File all tax returns or information reports.

(2) Pay all taxes, penalties, and interest.

(e) The commissioner may suspend or revoke any registration, permit, certificate, or authority if the person to whom the registration, permit, certificate, or authority is issued fails to do any of the following with respect to a listed tax:

(1) File all tax returns or information reports.

(2) Pay all taxes, penalties, and interest.

~~(d)~~ **(f)** Funding for the development and operation of the registration center shall be taken from the motor carrier regulation fund (IC 8-2.1-23-1).

~~(e)~~ **(g)** The department shall recommend to the general assembly other functions that the registration center may perform.

SECTION 7. IC 6-8.1-10-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 13. (a) A person that:**

(1) obtains a permit, license plate, cab card, or any other credential issued by the registration center established under IC 6-8.1-4-4; and

(2) alters the permit, license plate, cab card, or other credential;

is subject to a civil penalty of five hundred dollars ($500) for the first violation and one thousand dollars ($1,000) for each subsequent violation.

(b) A person that:

(1) is required to obtain a permit, a license plate, a cab card, or other credential issued by the registration center established under IC 6-8.1-4-4; and

(2) operates without obtaining the required permit, license plate, cab card, or other credential;

is subject to a civil penalty of five thousand dollars ($5,000) for each violation.

(c) A civil penalty imposed under this section:

(1) shall be deposited in the motor carrier regulation fund established by IC 8-2.1-23-1; and

(2) is in addition to any fines levied by a court.

SECTION 8. IC 8-2.1-22-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 29. **(a)** A person may not operate any motor vehicle over the public highways for hire, unless the operations are specifically exempt under this chapter, without first having obtained appropriate operating authority from the department to do so, and having otherwise complied with all other applicable provisions of this chapter.

(b) The department or the state police department may apply to an administrative law judge of the department or a court with jurisdiction for an order to impound a motor vehicle that is offered by a motor carrier to the general public for the transportation of passengers for hire if:

(1) the motor carrier has not obtained the required authority from the department to operate the motor vehicle for hire; and

(2) there is probable cause to believe that the motor vehicle has been operated on an Indiana highway to transport passengers for hire.

A hearing on an application to impound a motor vehicle under this subsection may not be held sooner than three (3) days after the date on which a notice of hearing on the application is served on the motor carrier. The motor carrier may contest the application to impound the motor vehicle at the hearing.

(c) A motor carrier that operated a motor vehicle impounded under this section may not obtain possession of the impounded motor vehicle unless the motor carrier obtains the required authority to operate the motor vehicle for hire.

SECTION 9. IC 8-2.1-22-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 40. (a) All applications under this chapter for a common carrier certificate or a contract carrier permit to operate motor vehicles, intrastate or interstate, shall be made on forms prescribed by the department.

(b) All applications for a common carrier certificate of public convenience and necessity, or a contract carrier permit, to operate motor vehicles intrastate on the public highways, which applications require a public hearing thereon, shall be accompanied by a filing fee of ~~fifty~~ **one hundred** dollars ~~($50).~~ **($100).** Each petition for reinstatement of a common carrier certificate of public convenience and necessity, or a contract carrier permit, to operate motor vehicles intrastate, on the highways of this state, shall be accompanied by a filing fee of fifty dollars ($50).

(c) All applications for a temporary certificate of public convenience and necessity, or for a contract carrier permit to operate motor vehicles on the highways of this state in intrastate commerce, shall be accompanied by a filing fee of ~~fifty~~ **one hundred** dollars ~~($50).~~ **($100).**

(d) All applications for a change in the name of the holder of a common carrier certificate of public convenience and necessity, of a common carrier certificate of authority or certificate of registration, or of a contract carrier permit, which change of name does not involve a change in the ownership of the operating rights of the certificate or permit holder, shall be made by verified petition to the department, and the applications shall be accompanied by a filing fee of twenty-five dollars ($25).

(e) In addition to the filing fees prescribed in subsection (b), all applications for a common carrier certificate of public convenience and necessity, or for a contract carrier permit, to operate motor vehicles intrastate, on the public highways, which applications require a public hearing thereon, shall be accompanied by a publication fee of ~~twenty~~ **eighty** dollars ~~($20).~~ **($80).** Whenever any republication is required through no fault of the department, the party responsible therefor shall be required to pay an additional publication fee of ~~twenty~~ **eighty** dollars ~~($20)~~ **($80)** for each republication.

(f) Each petition for rehearing of an application for a common carrier certificate of public convenience and necessity, or for a contract carrier permit, to operate motor vehicles intrastate, on the public highways, shall be accompanied by a filing fee of twenty-five dollars ($25).

(g) Each application or petition for alteration or change of a common carrier certificate of public convenience and necessity, or a contract carrier permit, to operate motor vehicles intrastate, on the public highways, shall be accompanied by a filing fee of fifty dollars ($50).

(h) Each application requesting permission to deviate from the department's tariff publishing regulations shall be accompanied by a filing fee of fifteen dollars ($15).

SECTION 10. IC 8-2.1-24-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 20. Before a motor carrier engaged in the transportation of property for compensation may operate a motor vehicle upon a public highway providing intrastate transportation, the motor carrier must be properly registered as required under the single state registration system in accordance with rules adopted by the department under IC 4-22-2. This section does not apply to a person exclusively engaged in the private transportation of **nonhazardous** property.

SECTION 11. IC 8-2.1-24-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 28. **(a)** Pursuant to an operations out of service order issued by the United States Department of Transportation or the Federal Highway Administration affecting a motor carrier operating in Indiana, the department of state revenue or the state police department may revoke and confiscate any registrations, license plates, or cab cards issued under IC 9-18.

(b) The department of state revenue may not register or title a motor carrier:

(1) if the motor carrier fails to comply with federal regulations under 49 CFR 386;

(2) under an operations out of service order issued by a federal agency; or

(3) if the motor carrier's ability to operate has been terminated or denied by a federal agency.

SECTION 12. IC 9-20-18-14.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14.5. (a) The civil penalties imposed under this section are in addition to the other civil penalties that may be imposed under IC 8 and IC 9. **Notwithstanding section 12 of this chapter, a civil penalty imposed under this section:**

(1) shall be deposited in the motor carrier regulation fund established by IC 8-2.1-23-1; and

(2) is in addition to any fines imposed by a court.

(b) A person who violates IC 9-20-5-7 is subject to a civil penalty of five hundred dollars ($500) for each violation. ~~as determined by the court. Notwithstanding section 12 of this chapter, a civil penalty imposed under this section must be deposited in the motor carrier regulation fund established under IC 8-2.1-23.~~

~~(c) A person who operates a vehicle subject to IC 9-20-5-7 on a route other than a route designated under IC 9-20-5-4 is subject to a civil penalty of five hundred dollars ($500) for each violation as determined by the court. Notwithstanding section 12 of this chapter, a civil penalty imposed under this section must be deposited in the motor carrier regulation fund established under IC 8-2.1-23.~~

(c) A person who obtains a permit under this article and violates this article is subject to a civil penalty of five hundred dollars ($500) for the first violation and one thousand dollars ($1,000) for each subsequent violation.

(d) A person who transports heavy vehicles or loads subject to this article and fails to obtain a permit required under this article is subject to a civil penalty of five thousand dollars ($5,000) for each violation.

(e) A civil penalty imposed under this section may be assessed against a person only after an administrative hearing has been conducted at which the person has an opportunity to present information as to why the civil penalty should not be assessed.

(Reference is to EHB 1214 as reprinted March 2, 2006.)

DAVIS	LONG
PELATH	LANANE
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT
ESB 349–1; filed March 14, 2006, at 1:22 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 349 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 27-1-15.6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) As used in this section, "insurer" does not include an officer, director, employee, subsidiary, or affiliate of an insurer.

(b) This chapter does not require an insurer to obtain an insurance producer license.

(c) The following are not required to be licensed as an insurance producer:

(1) An officer, director, or employee of an insurer or of an insurance producer, if the officer, director, or employee does not receive any commission on policies written or sold to insure risks that reside, are located, or are to be performed in Indiana, and if:

(A) the officer, director, or employee's activities are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance;

(B) the officer, director, or employee's function relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or

(C) the officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers and the officer, director, or employee's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation, or negotiation of insurance.

(2) A person who secures and furnishes information for the purpose of:

(A) group life insurance, group property and casualty insurance, group annuities, group or blanket accident and sickness insurance;

(B) enrolling individuals under plans;

(C) issuing certificates under plans or otherwise assisting in administering plans; or

(D) performing administrative services related to mass marketed property and casualty insurance;

where no commission is paid to the person for the service.

(3) A person identified in clauses (A) through (C) who is not in any manner compensated, directly or indirectly, by a company issuing a contract, to the extent that the person is engaged in the administration or operation of a program of employee benefits for the employer's or association's employees, or for the employees of a subsidiary or affiliate of the employer or association, that involves the use of insurance issued by an insurer:

(A) An employer or association.

(B) An officer, director, or employee of an employer or association.

(C) The trustees of an employee trust plan.

(4) An:

(A) employee of an insurer; or

(B) organization employed by insurers;

that is engaged in the inspection, rating, or classification of risks, or in the supervision of the training of insurance producers, and that is not individually engaged in the sale, solicitation, or negotiation of insurance.

(5) A person whose activities in Indiana are limited to advertising, without the intent to solicit insurance in Indiana, through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of Indiana, provided that the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in Indiana.

(6) A person who is not a resident of Indiana and who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that:

(A) the person is otherwise licensed as an insurance producer to sell, solicit, or negotiate the insurance in the state where the insured maintains its principal place of business; and

(B) the contract of insurance insures risks located in that state.

(7) A salaried full-time employee who counsels or advises the employee's employer about the insurance interests of the employer or of the subsidiaries or business affiliates of the employer, provided that the employee does not sell or solicit insurance or receive a commission.

(8) An officer, employee, or representative of a rental company (as defined in IC 24-4-9-7) who negotiates or solicits insurance incidental to and in connection with the rental of a motor vehicle.

(9) An individual who:

(A) furnishes only title insurance rate information at the request of a consumer; and

(B) does not discuss the terms or conditions of a title insurance policy.

(10) A licensed attorney when acting as a title insurance producer (as defined in IC 27-7-3.5-16) or a title insurance agent (as defined in IC 27-7-3.5-19).

SECTION 2. IC 27-7-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 3.5. Title Insurance

Sec. 1. As used in this chapter, "abstract of title" means a written history, synopsis, or summary of recorded instruments affecting the title to real property.

Sec. 2. As used in this chapter, "affiliated business" means a part of a title insurance agent's business written in Indiana that was referred to the title insurance agent by a producer of title insurance business or an associate of a producer of title insurance business, in circumstances in which the producer or the associate, or both, have a financial interest in the title insurance agent.

Sec. 3. As used in this chapter, "alien title insurer" means a title insurer that is incorporated or organized under the laws of a foreign nation or a foreign province or territory.

Sec. 4. As used in this chapter, "associate" means the following:

(1) A business organized for profit in which a producer of title insurance business is a director, an officer, a partner, an employee, or an owner of a financial interest in the business.

(2) An employee of a producer of title insurance business.

(3) A franchiser or franchisee of a producer of title insurance business.

(4) A spouse, parent, or child of a producer of title insurance business.

(5) A person, other than a natural person, that controls, is controlled by, or is under common control with a producer of title insurance business.

(6) A person with whom a producer of title insurance business or an associate of a producer of title insurance business has an agreement, arrangement, or understanding, or pursues a course of conduct, the purpose or effect of which is to provide financial benefits to the producer or associate for the referral of title insurance business.

Sec. 5. As used in this chapter, "bona fide employee" means an individual:

(1) who devotes substantially all of the individual's time to performing services on behalf of a title insurer or title insurance agent; and

(2) whose compensation for the services described in subdivision (1) is in the form of salary or the equivalent paid by the title insurer or title insurance agent.

Sec. 6. As used in this chapter, "chattels real" means an interest in real estate that is less than a freehold or fee interest.

Sec. 7. As used in this chapter, "closing protection letter" means an indemnification of or undertaking to a party to a real estate transaction by a principal, such as a title insurance company, setting forth in writing the extent to which the principal is responsible for intentional or unintentional misconduct or errors of the principal's agent in closing the real estate transaction.

Sec. 8. As used in this chapter, "commissioner" means the insurance commissioner appointed under IC 27-1-1-2, the commissioner's representative, or the commissioner, director, or superintendent of insurance in another state.

Sec. 9. As used in this chapter, "department" refers to the department of insurance created by IC 27-1-1-1.

Sec. 10. As used in this chapter, "escrow" means written instruments, money, or other items deposited by a party with a depository, an escrow agent, or an escrowee for delivery to another party upon the performance of a specified condition or the happening of a certain event.

Sec. 11. As used in this chapter, "financial interest" means a:

(1) direct or indirect; and

(2) legal or beneficial;

interest in an entity, in which the holder of the interest is or will be entitled to at least five percent (5%) of the net profits or net worth of the entity.

Sec. 12. As used in this chapter, "foreign title insurer" means a title insurer that is incorporated or organized under the laws of another state, the District of Columbia, or another jurisdiction of the United States.

Sec. 13. As used in this chapter, "person" means a natural person, a partnership, an association, a cooperative, a corporation, a trust, a limited liability company, or another legal entity.

Sec. 14. As used in this chapter, "premium" means the charge:

(1) specified under a rule adopted by the commissioner;

(2) that is made by a title insurer for a title insurance policy, including the charge for:

(A) performance of primary title services by a title insurer, title insurance agent, or title agency; and

(B) incurring the risks incident to the title insurance policy;

under the several classifications of title insurance policies and forms; and

(3) upon which a premium tax is paid.

Sec. 15. As used in this chapter, "primary title services" means the following services:

(1) Evaluation of a title search or an abstract of title to determine the insurability of title.

(2) Clearance of underwriting objections.

(3) Issuance and assumption of responsibility for the issuance of a title insurance policy.

(4) Issuance of closing protection letters.

Sec. 16. (a) As used in this chapter, "producer" means a person, including an officer, director, or owner of five percent (5%) or more of the equity or capital of a person, that is engaged in Indiana in the trade, business, occupation, or profession of:

(1) buying or selling interests in real property;

(2) making loans secured by interests in real property; or

(3) acting as a broker, an agent, or a representative of a person who:

(A) buys or sells an interest in real property; or

(B) lends or borrows money using an interest in real property as security for the loan.

(b) The term does not include an insurance producer or a limited lines producer (both as defined in IC 27-1-15.6-2).

Sec. 17. As used in this chapter, "referral" means the direction or the exercise of a power or influence over the direction of title insurance business, regardless of whether the consent or approval of another person is sought or obtained with respect to the direction or exercise.

Sec. 18. As used in this chapter, "security deposit" means funds or other property received by a title insurance agent as collateral to secure an indemnitor's obligation under an indemnity agreement under which a title insurer:

(1) agrees to provide coverage:

(A) under a title insurance policy; and

(B) that would otherwise be excluded under a specific exception to coverage; and

(2) is granted a perfected security interest in the collateral in exchange for agreeing to provide the coverage described in subdivision (1).

Sec. 19. As used in this chapter, "title insurance agent" means an authorized person, other than a bona fide employee of a title insurer or an attorney licensed to practice law in Indiana, who:

(1) is licensed as a limited lines producer under IC 27-1-15.6; and

(2) on behalf of a title insurer performs the following acts in conjunction with the issuance of a title insurance report or title insurance policy:

(A) Determines insurability and issues a title insurance report or a title insurance policy, or both, based on the performance or review of a title search, an examination of title, or an abstract of title.

(B) Performs one (1) or more of the following functions:

(i) Collection or disbursement of premiums, escrow, security deposits, or other funds.

(ii) Management of escrow, settlement, or closing.

(iii) Solicitation or negotiation of title insurance business.

The term includes a title agency.

Sec. 20. As used in this chapter, "title insurance business" means any of the following:

(1) Issuing or offering to issue, as a title insurer, a title insurance policy.

(2) Transacting or proposing to transact, as a title insurance agent or title insurer, any of the following activities when conducted or performed in contemplation of or in

conjunction with the issuance of a title insurance policy:
(A) Solicitation or negotiation of the issuance of a title insurance policy.
(B) Guaranteeing, warranting, or otherwise insuring the correctness of a title search for instruments affecting the title to:
(i) real property;
(ii) chattels real;
(iii) cooperative units; and
(iv) proprietary leases;
and liens or charges affecting the property described in items (i) through (iv).
(C) Management of escrow, settlement, or closing.
(D) Execution of title insurance policies.
(E) Effectuation of contracts of reinsurance.
(F) Abstraction, searches, or examination of titles.
(G) Issuance of closing protection letters.
(3) Guaranteeing, warranting, or insuring searches or examinations of title to real property or chattels real.
(4) Guaranteeing or warranting the status of title concerning:
(A) ownership of; or
(B) liens on;
real property and chattels real by a person other than a principal to a transaction related to issuance of a title insurance policy.

Sec. 21. As used in this chapter, "title insurance policy" means a contract insuring or indemnifying the owner of, or another person that is lawfully interested in, real or personal property or chattels real, against loss or damage arising from any of the following conditions existing on or before the title insurance policy date and not excepted or excluded:
(1) Defects in or liens or encumbrances on the insured title.
(2) Unmarketability of the insured title.
(3) Invalidity, lack of priority, or unenforceability of liens or encumbrances on the property.
(4) Lack of legal right of access to real property.
(5) Unenforceability of rights in title to real property.

Sec. 22. As used in this chapter, "title insurance report" means a preliminary report, commitment, or binder:
(1) issued before the issuance of a title insurance policy; and
(2) containing the terms, conditions, exceptions, and other matters incorporated by reference under which a title insurer will issue a title insurance policy.

Sec. 23. As used in this chapter, "title insurance subagent" means a person, other than a bona fide employee of a title insurance agent, who on behalf of a title insurance agent determines insurability and issues a title insurance report or title insurance policy, or both, based on the performance or review of a title search or abstract of title. The term does not include a licensed attorney that performs legal services, including title examination or closing services.

Sec. 24. As used in this chapter, "title insurer" means the following:
(1) A company organized under Indiana law to transact title insurance business.
(2) A foreign title insurer or alien title insurer that is licensed in Indiana to transact title insurance business.

Sec. 25. As used in this chapter, "underwrite" means to accept or reject risk:
(1) on behalf of a title insurer; and
(2) under authority granted by the title insurer.

Sec. 26. (a) The commissioner shall adopt rules under IC 4-22-2 to establish criteria and a process for licensure of the following:
(1) A title agency.
(2) A title insurance agent.

(b) A license may be issued under this section if each person named on the license possesses all qualifications determined appropriate by the commissioner.

(c) A person shall not act as a title agency or title insurance agent, and a title insurer may not contract with a person to act as a title agency or title insurance agent, with respect to risks located in Indiana unless the person is licensed under this section as a title agency, title insurance agent, or licensed attorney in Indiana.

(d) An individual:
(1) employed by or contracted by a title agency, title insurance agent, or title insurer;
(2) to whom the title agency, title insurance agent, or title insurer delegates authority to act on the title agency's, title insurance agent's, or title insurer's behalf; and
(3) who engages in title insurance business;
shall be individually licensed under this section. This subsection does not require licensure of an individual who performs only clerical or administrative functions, including quoting title insurance fees.

(e) An applicant for a title agency license or a title insurance agent license under this section must also satisfy the requirements of IC 27-1-15.6 that apply to the title agency or title insurance agent.

(f) A title insurer that engages or employs a title agency shall file with the department, on a form prescribed by the department, an application certifying that the proposed title agency meets both of the following requirements:
(1) The title agency has obtained a fidelity bond in an amount that is acceptable to the title insurer, but not less than fifty thousand dollars ($50,000).
(2) The title agency has obtained an errors and omissions insurance policy:
(A) that provides coverage for an opinion of title;
(B) from an insurer that is acceptable to the title insurer; and
(C) in an amount acceptable to the title insurer, but not less than two hundred fifty thousand dollars ($250,000) per claim with an aggregate limit.
The department shall adopt rules under IC 4-22-2 to specify an alternative method of compliance with subdivisions (1) and (2) if a fidelity bond or errors and omissions insurance is generally unavailable.

(g) A title agency shall provide to a title insurer with which the title agency places title insurance business, in a timely manner, information requested by the title insurer to comply with reporting requirements of the department.

(h) To obtain an initial license under this section, a title agency shall comply with the requirements of section 27(a) of this chapter.

Sec. 27. (a) To obtain an initial license under section 26 of this chapter, a title agency shall:
(1) have deposited with the department securities of the type described in IC 27-1-13-3(b) and having at all times a market value of not less than ten thousand dollars ($10,000); or
(2) post a surety bond of not less than ten thousand dollars ($10,000) payable to the department;
to secure the title agency's performance of the title agency's duties and responsibilities under the contract described in section 30 of this chapter and entered into between the title agency and each title insurer for which the title agency is appointed. If a surety bond is generally unavailable, the department may adopt rules under IC 4-22-2 to establish alternative methods by which a title agency may comply with this subsection.

(b) The deposit made or bond posted under subsection (a) is for the benefit of a person insured under a title insurance policy and damaged by the title agency's violation of this chapter or of a contractual duty or responsibility described in subsection (a).

(c) A title insurer shall not, directly or indirectly on behalf of a title agency, provide a deposit or bond required under subsection (a).

(d) A title agency may:
(1) exchange or substitute securities:
(A) described in IC 27-1-13-3(b); and
(B) of like quality and value;
for securities on deposit;
(2) receive interest and other income accruing on securities deposited; and
(3) at reasonable times, inspect a deposit of securities made; under subsection (a)(1).

(e) If a properly documented claim is timely filed with the department by a person described in subsection (b), the department may remit to the person in payment of the claim an appropriate amount of:

(1) a deposit made under subsection (a); or

(2) proceeds that are received from the surety.

(f) A deposit or bond described in subsection (a) must remain unimpaired while the title agency continues in business in Indiana and for one (1) year after termination of all title agency appointments held by the title agency. If there are no claims outstanding against the deposit or bond one (1) year after termination of the appointments, the department shall return the deposit or bond and any accrued interest to the title agency.

Sec. 28. (a) A title agency or title insurance agent that is licensed under section 26 of this chapter shall comply with the requirements of IC 27-1-15.7 that apply to the title agency or title insurance agent.

(b) A continuing education course must be approved under IC 27-1-15.7-4.

(c) An individual who teaches an approved course of instruction or lectures at an approved seminar qualifies for the same number of continuing education hours as would be granted to an individual who takes and successfully completes the course or seminar.

(d) The department may grant an individual waiver of the continuing education requirements of IC 27-1-15.7 upon a showing by a licensee that it is not feasible for the licensee to satisfy the requirements before the licensee's license renewal date for an acceptable reason, including the licensee's:

(1) serious physical injury or illness; or

(2) active duty in the armed services for an extended period.

(e) An individual who is subject to this section shall furnish, in a manner satisfactory to the department, certification of the individual's completion of courses, programs, or seminars required by this section.

Sec. 29. (a) In addition to the requirements of sections 26(f) and 27 of this chapter, the commissioner may require a title insurance agent to maintain, for the benefit of a title insurer, an insured, or a depositor, under terms and conditions to be prescribed by the commissioner, in amounts commensurate with the title insurance agent's average exposure and the volume and nature of the title insurance agent's business, a sufficient net worth to ensure the title insurance agent's solvency and commitment to the purpose of being a title insurance agent.

(b) In determining the precise amount and terms and conditions described in subsection (a), the commissioner may adopt rules under IC 4-22-2 that:

(1) specify acceptable alternatives to the net worth requirements described in subsection (a); and

(2) exempt certain persons from complying with all or part of the net worth requirements described in subsection (a) or specified alternatives to the net worth requirements by virtue of:

(A) the person's actual or expected volume of business; or

(B) individual circumstances that show that the requirements would pose an undue hardship on the title insurance agent and the title insurance agent's services will be needed by and desirable to insureds.

(c) The commissioner may adopt rules under IC 4-22-2 to specify information that must be provided to evidence sufficiency of a title insurance agent's net worth as described in subsection (a).

(d) Financial information provided to evidence sufficiency of a title insurance agent's net worth under this section is confidential.

(e) A title insurance agent shall perform, through the title insurance agent's bona fide employees, primary title services to receive compensation for the services the title insurance agent renders.

Sec. 30. (a) A person, firm, association, or corporation that acts as a title insurance agent shall not place title insurance business with a title insurer unless a written contract is in force between the title insurance agent and the title insurer that:

(1) specifies the responsibilities of each party;

(2) if both parties share responsibility for a particular function, specifies the division of the responsibilities; and

(3) contains the following minimum provisions:

(A) The title insurer may terminate the contract upon written notice if one (1) of the following occurs:

(i) Fraud, insolvency, appointment of a receiver or conservator, bankruptcy, cancellation of the title insurance agent's license to do title insurance business, or the commencement of legal proceedings by the state of domicile of the title insurance agent that, if successful, will lead to cancellation of the title insurance agent's license to do title insurance business.

(ii) Material breach of a provision of the contract.

(iii) Notice of cancellation is provided in accordance with contract termination requirements.

(B) Upon notice of termination, the title insurance agent shall immediately discontinue all underwriting on behalf of the title insurer.

This subdivision does not relieve a title insurance agent or title insurer of a contractual obligation not specified in this subdivision.

(b) A title insurance agent shall render accounts detailing all transactions, and remit all funds, due to a title insurer under the contract described in subsection (a) to the title insurer before the later of the following:

(1) Forty-five (45) days after the end of the month of the effective date of the title insurance policy.

(2) Within the time specified by the underwriting contract.

(c) Funds collected by a title insurance agent for the account of a title insurer:

(1) must be held in a fiduciary capacity in a bank that is a qualified financial institution; and

(2) are the property of the title insurer for whom the funds are collected.

(d) A title insurance agent shall keep records concerning funds described in subsection (c) in a manner that permits identification of funds that belong to a particular title insurer.

(e) At a title insurer's request, a title insurance agent or a title insurance agent's successor in interest, transferee, or receiver shall provide access to and the right to copy all escrow files and underwriting files involving a transaction in which a title insurance report or title insurance policy is issued or will be issued by the title insurance agent.

(f) A title insurance agent shall provide to a title insurer access to and a right to copy accounts and records maintained by the title insurance agent with respect to title insurance business placed with the title insurer.

(g) A contract described in subsection (a) may not be assigned in whole or in part by a title insurance agent without the expressed written consent of the title insurer.

(h) It is the duty of a title insurance agent to immediately report and forward to a title insurer all title related escrow claims and title claims reported to the title insurance agent by a policyholder or another person. However, if the contract described in subsection (a) permits the title insurance agent to settle claims on behalf of the title insurer:

(1) the title insurance agent shall send a copy of the claim file to the title insurer at the title insurer's request or as soon as it is known by the title insurance agent that the claim:

(A) has the potential to exceed an amount established by the title insurer;

(B) involves a coverage dispute;

(C) may exceed the title insurance agent's claims settlement authority;

(D) is open for more than six (6) months; or

(E) is closed by payment exceeding an amount established by the title insurer;

(2) files related to title and title related escrow claims settled by the title insurance agent are the property of the title insurer; and

(3) the title insurer may:

(A) suspend a settlement authority granted to the title insurance agent during a pending dispute regarding a

cause for termination of the contract described in subsection (a); or

(B) upon:

(i) the title insurer's written notice to the title insurance agent; or

(ii) the termination of the contract described in subsection (a);

immediately terminate a settlement authority granted to the title insurance agent.

This subdivision does not relieve a title insurance agent or title insurer of any other contractual obligation.

(i) If electronic claims files exist in the records of a title insurance agent, the contract described in subsection (a) must address the immediate transmission of the data contained in the electronic claims files.

(j) A title insurance agent shall not:

(1) bind reinsurance or retrocession on behalf of a title insurer; or

(2) appoint a title insurance subagent, without the expressed written consent of the title insurance underwriter that provides underwriting services under a contract with a title insurer.

(k) The contract described in subsection (a) must include specific terms of a title insurance agent's compensation.

(l) A title insurance agent shall maintain an inventory of title insurance policy forms or title insurance policy numbers assigned to the title insurance agent by a title insurer.

(m) A title insurance agent shall:

(1) annually;

(2) within a time specified by the contract described in subsection (a); or

(3) concurrent with the renewal date of the title insurance agent's contract with a title insurer;

furnish a title insurer with proof that the title insurance agent is in compliance with section 26 of this chapter.

(n) A:

(1) title insurer; or

(2) title insurance agent on behalf of a title insurer;

shall issue a title insurance policy not later than sixty (60) days after all conditions or requirements specified in the title insurance report have been satisfied. However, if a title insurance policy cannot be issued within the period set forth in this subsection due to an act of God or war, the policy must be issued within a reasonable period determined by the department.

Sec. 31. (a) If:

(1) a title insurance agent or title insurer provides settlement services and issues a lender's title insurance policy in conjunction with a mortgage loan made simultaneously with the purchase of all or part of residential real estate securing the loan; and

(2) an owner's title insurance policy has not been requested;

the title insurance agent or title insurer shall, at the time the title insurance report is prepared, provide written notice described in subsection (b) to the purchaser-mortgagor or the purchaser-mortgagor's representative.

(b) Notice provided under subsection (a) must explain:

(1) that a lender's title insurance policy will be issued to protect the mortgage lender;

(2) that the lender's title insurance policy does not provide title insurance protection to the purchaser-mortgagor as the owner of the property being purchased;

(3) what an owner's title insurance policy insures against;

(4) what possible risks exist for the purchaser-mortgagor that could be insured against through the purchase of an owner's title insurance policy; and

(5) that the purchaser-mortgagor may obtain an owner's title insurance policy protecting the property owner for an additional cost.

(c) A title insurer or title insurance agent shall, at the time the title insurance report is prepared, provide written notice to all parties that receive the title insurance report that a closing protection letter may be purchased.

(d) The department shall adopt rules under IC 4-22-2 to specify the content of each notice required under this section.

Sec. 32. (a) A title insurance agent shall maintain sufficient records of the title insurance agent's affairs, including the title insurance agent's escrow operations and escrow trust accounts, to allow the commissioner to adequately ensure that the title insurance agent is in compliance with this chapter.

(b) The commissioner may prescribe:

(1) specific record entries and documents that must be maintained under subsection (a); and

(2) the length of time for which the records and documents must be maintained.

Sec. 33. (a) A title insurance agent, an officer, a director, or an employee of a title insurance agent, or a person associated with a title insurance agent or an officer, a director, or an employee of a title insurance agent, who:

(1) is an independent contractor for bookkeeping or similar purposes; and

(2) knowingly or intentionally converts or misappropriates funds received or held in escrow or in trust by the title insurance agent;

or a person who knowingly or intentionally receives or conspires to receive funds described in subdivision (2) commits an offense described in IC 35-43-9-7.

(b) If a title insurance agent or title agency defalcates, converts, or misappropriates funds held by the title insurance agent or title agency and the title insurance agent or title agency is convicted of an offense under IC 35-43-9-7, the following apply:

(1) The title insurer is liable for the defalcation, conversion, or misappropriation by the title insurance agent or title agency.

(2) If the title insurance agent or title agency is a title insurance agent or title agency for two (2) or more title insurers, the liability must be borne by the title insurer upon which a title insurance report or title insurance policy was issued before the illegal act.

However, a title insurer's liability under this subsection is limited to the amount payable under a title insurance policy issued or committed, or a closing protection letter issued, in connection with the real estate closing or escrow in relation to which the defalcation, conversion, or misappropriation is committed, plus reasonable attorney's fees.

(c) A title insurer shall, at least annually, conduct an on-site review of the underwriting, claims, and escrow practices of a title insurance agent, including a review of the title insurance agent's title insurance policy blank inventory and processing operations. If the title insurance agent does not maintain separate bank or trust accounts for each title insurer that the title insurance agent represents, the title insurer shall verify that the funds held on the title insurer's behalf are reasonably ascertainable from the books of account and records of the title insurance agent.

Sec. 34. (a) The commissioner shall establish a title insurance enforcement unit to enforce this chapter.

(b) The title insurance enforcement unit shall do the following:

(1) Investigate deceptive acts in connection with title insurance.

(2) Investigate violations of this chapter.

(3) Cooperate with federal, state, and local law enforcement agencies in the investigation of:

(A) deceptive acts in connection with title insurance; and

(B) violations of the federal Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.).

(c) The following may cooperate with the title insurance enforcement unit, including sharing information that is otherwise confidential, to enforce compliance with this chapter:

(1) The professional licensing agency and appropriate licensing boards with respect to a person licensed under IC 25.

(2) The department of financial institutions.

(3) The securities division of the office of the secretary of state.

(4) The supreme court disciplinary commission, with respect to attorney misconduct.

(5) The housing and community development authority.

(6) The department of state revenue.

(7) The state police department.
(8) A prosecuting attorney.
(9) Local law enforcement agencies.
(10) The Indiana real estate commission.

(d) The commissioner may file a complaint with an entity specified in subsection (c) to enforce this chapter.

(e) This section does not limit the jurisdiction of an entity described in subsection (c).

Sec. 35. The commissioner may adopt rules under IC 4-22-2 to implement this chapter.

Sec. 36. (a) If the commissioner, after notice and hearing under IC 4-21.5, determines that a person has violated this chapter, the commissioner may:

(1) impose a civil penalty of not more than ten thousand dollars ($10,000) for each violation; and
(2) if the person is a title insurance agent, order revocation or suspension of the title insurance agent's license.

(b) If an order of rehabilitation or liquidation of a title insurer has been entered under IC 27-9, and:

(1) the receiver appointed under the order determines that a title insurance agent or another person has violated this chapter; and
(2) the title insurer has suffered a resulting loss or damage; the receiver may maintain a civil action for recovery of damages or other appropriate sanctions for the benefit of the title insurer and the title insurer's policyholders and creditors.

(c) This section does not:

(1) affect the right of the commissioner to impose another penalty under this title; or
(2) limit or restrict the rights of policyholders, claimants, or creditors.

Sec. 37. The commissioner or attorney general may bring an action in a court with jurisdiction to enjoin violations of the federal Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.).

(Reference is to ESB 349 as reprinted March 1, 2006.)

WALTZ	BURTON
MRVAN	MAHERN
Senate Conferees	House Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1287–1; filed March 14, 2006, at 1:29 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 1287 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 motor vehicles and transportation.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 8-23-9-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 0.5. The department shall:**

(1) give notice of the time and place for the receiving of bids under this chapter in accordance with IC 5-3-1; and
(2) provide electronic access to a notice of the date, time, and place for the receiving of bids under this chapter through the computer gateway administered by the office of technology.

SECTION 2. IC 9-13-2-173.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 173.3. "State highway system" has the meaning set forth in IC 8-23-1-40.**

SECTION 3. IC 9-16-1-7, AS ADDED BY P.L.221-2005, SECTION 142, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. **(a) This section does not apply to a license branch in a county if there are no precincts in the county in which an election is held on election day.**

~~(a)~~ **(b)** On each general, municipal, primary, and special election day (as defined in ~~IC 3-5-1-2),~~ **IC 3-5-2-18),** all ~~full service~~ license branches **that provide state identification cards** must remain open from 6:00 a.m., local time, to 6:00 p.m., local time, solely for the purpose of issuing driver's licenses and state identification cards under IC 9-24.

~~(b)~~ **(c)** On the day before each general, municipal, primary, and special election day (as defined in ~~IC 3-5-1-2),~~ **IC 3-5-2-18),** all ~~full service~~ license branches **that provide state identification cards** must remain open from 8:30 a.m., local time, to 8:00 p.m., local time, solely for the purpose of issuing driver's licenses and state identification cards under IC 9-24.

~~(c)~~ **(d)** The commission shall:

(1) designate another day as ~~compensatory~~ time off; or
(2) authorize overtime pay;

for license branch personnel required to work on an election day.

SECTION 4. IC 9-21-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. **(a)** It is unlawful for a person to knowingly fail to comply with a lawful order or direction of a law enforcement officer invested by law with authority to direct, control, or regulate traffic.

(b) Except as otherwise provided in this chapter, a person who violates this chapter commits a Class C infraction.

SECTION 5. IC 9-21-8-56 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 56. A person who operates a vehicle in a highway worksite zone:**

(1) in a reckless manner; or
(2) attempting to endanger the safety or property of individuals authorized by the Indiana department of transportation or the appropriate local entities to be in a highway worksite zone;

commits a Class A misdemeanor.

SECTION 6. IC 9-22-1-4, AS AMENDED BY P.L.104-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) Except as provided in subsection (c), the person who owns an abandoned vehicle or parts is:

(1) responsible for the abandonment; and
(2) liable for all of the costs incidental to the removal, storage, and disposal;

of the vehicle or the parts under this chapter.

(b) The costs for storage of an abandoned vehicle may not exceed one thousand five hundred dollars ($1,500).

(c) If an abandoned vehicle is sold by a person who removed, towed, or stored the vehicle, the person who previously owned the vehicle is not responsible for storage fees.

(d) If an abandoned vehicle is sold by a person who removed, towed, or stored the vehicle, and proceeds from the sale of the vehicle covered the **removal, towing, and** storage expenses, any remaining proceeds from the sale of the vehicle shall be returned to the previous owner of the vehicle if the previous owner is known.

SECTION 7. IC 9-22-1-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 11.5. An officer who finds or is notified of a vehicle or part believed to be abandoned on a highway in the state highway system shall attach a notice tag in a prominent place on the vehicle or part. The notice tag must contain the following information:**

(1) The date and time the notice is attached.
(2) The officer's name.
(3) The name, address, and telephone number of the public agency or the Indiana department of transportation that may be contacted for information.
(4) That the vehicle or part is considered abandoned.
(5) That the vehicle or part will be removed after twenty-four (24) hours.
(6) That the person who owns the vehicle or part will be held responsible for all costs incidental to the removal, storage, and disposal of the vehicle or part.
(7) That the person who owns the vehicle or part may avoid costs described in subdivision (6) by removing the vehicle or part within twenty-four (24) hours.

SECTION 8. IC 9-22-1-12 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. If a vehicle or a part tagged under section 11 **or 11.5** of this chapter is not removed within the ~~seventy-two (72) hour~~ **specified** period, the officer shall prepare a written abandoned vehicle report of the vehicle or parts, including information on the condition, missing parts, and other facts that might substantiate the estimated market value of the vehicle or parts. Photographs shall be taken to describe the condition of the vehicle or parts.

SECTION 9. IC 9-22-1-13, AS AMENDED BY P.L.104-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) If in the opinion of the officer the market value of an abandoned vehicle or parts determined in accordance with section 12 of this chapter is less than:

(1) five hundred dollars ($500); or

(2) in a municipality that has adopted an ordinance under subsection (b), the amount established by the ordinance;

the officer shall immediately dispose of the vehicle to a ~~towing service.~~ **storage yard.** A copy of the abandoned vehicle report and photographs relating to the abandoned vehicle shall be forwarded to the bureau. ~~The~~ **A** towing service may dispose of the abandoned vehicle not less than thirty (30) days after the date on which the towing service removed the abandoned vehicle. **A municipal corporation (as defined in IC 36-1-2-10) that operates a storage yard as authorized under IC 36-9-30-3 may dispose of the abandoned vehicle to an automobile scrapyard or an automotive salvage recycler upon removal of the abandoned vehicle.** The public agency disposing of the vehicle shall retain the original records and photographs for at least two (2) years.

(b) The legislative body of a municipality (as defined in IC 36-1-2-11) may adopt an ordinance that establishes the market value below which an officer may dispose of a vehicle or parts under subsection (a). However, the market value established by the ordinance may not be more than seven hundred fifty dollars ($750).

SECTION 10. IC 9-22-1-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 14.5. (a) This section applies only to an abandoned vehicle or part abandoned on a highway in the state highway system.**

(b) If, in the opinion of the officer, the market value of the abandoned vehicle or part determined in accordance with section 12 of this chapter is at least:

(1) five hundred dollars ($500); or

(2) in a municipality that has adopted an ordinance under section 13(b) of this chapter, the amount established by the ordinance;

the officer, before placing a notice tag on the vehicle or part, shall make a reasonable effort to ascertain the person who owns the vehicle or part or who may be in control of the vehicle or part.

(c) After twenty-four (24) hours, the officer shall require the vehicle or part to be towed to a storage yard or towing service.

SECTION 11. IC 9-22-1-19, AS AMENDED BY P.L.104-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 19. (a) Within seventy-two (72) hours after removal of an abandoned vehicle to a storage yard or towing service under section 13, 14, **14.5,** or 16 of this chapter, the public agency or towing operator shall prepare and forward to the bureau an abandoned vehicle report containing a description of the vehicle, including the following information concerning the vehicle:

(1) The make.

(2) The model.

(3) The identification number.

(4) The number of the license plate.

(b) The public agency or towing operator shall request that the bureau advise the public agency or towing operator of the name and most recent address of the person who owns or holds a lien on the vehicle.

(c) Notwithstanding section 4 of this chapter, if the public agency or towing operator fails to notify the bureau of the removal of an abandoned vehicle within seventy-two (72) hours after the vehicle is removed as required by subsection (a), the public agency or towing operator:

(1) may not initially collect more in reimbursement for the costs of storing the vehicle than the cost incurred for storage for seventy-two (72) hours; and

(2) may collect further reimbursement under this chapter only for additional storage costs incurred after notifying the bureau of the removal of the abandoned vehicle.

SECTION 12. IC 33-37-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) This section applies to criminal, infraction, and ordinance violation actions that are traffic offenses (as defined in IC 9-30-3-5).

(b) The clerk shall collect a highway worksite zone fee of fifty cents ($0.50). However, the clerk shall collect a highway worksite zone fee of twenty-five dollars and fifty cents ($25.50) if:

(1) the criminal action, infraction, or ordinance violation is:

(A) exceeding a worksite speed limit (as provided in IC 9-21-5-2 and authorized by IC 9-21-5-3); ~~or~~

(B) failure to merge (as provided in IC 9-21-8-7.5); ~~and~~ **or**

(C) reckless driving that endangers the safety of an individual authorized by the Indiana department of transportation or the appropriate local entities to be in a highway worksite zone (as provided in IC 9-21-8-56); and

(2) the judge orders the clerk to collect the fee for exceeding a worksite speed limit, ~~or~~ failure to merge, **or reckless driving that endangers the safety of an individual authorized by the Indiana department of transportation or the appropriate local entities to be in a highway worksite zone.**

SECTION 13. IC 9-21-8-49 IS REPEALED [EFFECTIVE JULY 1, 2006].

SECTION 14. **An emergency is declared for this act.**

(Reference is to EHB 1287 as printed February 17, 2006.)

DUNCAN	LANDSKE
VAN HAAFTEN	ROGERS
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT

ESB 148–1; filed March 14, 2006, at 2:21 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 148 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 6-3.5-1.1-2.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.8. (a) This section applies to:

(1) a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000); and

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

(b) The county council may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to:

(1) finance, construct, acquire, improve, renovate, or equip:

(A) jail facilities;

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

(C) other criminal justice facilities; and

(D) related buildings and parking facilities;

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

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

(c) The county council may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to operate or maintain:

(1) jail facilities;

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

(3) other criminal justice facilities; and

(4) related buildings and parking facilities;

located in the county. A county council of a county described in subsection (a)(1) or (a)(2) may make a determination under both this subsection and subsection (b).

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

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

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

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

on the adjusted gross income of county taxpayers if the county council makes ~~the~~ **a** finding and determination set forth in subsection (b) **or (c). The tax rate may not be imposed at a rate greater than is necessary to carry out the purposes described in subsections (b) and (c), as applicable.**

(e) This subsection applies only to a county described in subsection (a)(1). If the county council imposes the tax under this section to pay for the purposes described in both subsections (b) and (c), when:

(1) the financing, construction, acquisition, improvement, renovation, and equipping described in subsection (b) are completed; and

(2) all bonds issued (including any refunding bonds) or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described in subsection (b) are fully paid;

the county council shall, subject to subsection (d), establish a tax rate under this section by ordinance such that the revenue from the tax does not exceed the costs of operating and maintaining the jail facilities referred to in subsection (b)(1)(A).

(f) The tax imposed under this section may be imposed only until the ~~later~~ **last** of the ~~date on which.~~ **following dates:**

(1) The date on which the financing, construction, acquisition, improvement, renovation, and equipping described in subsection (b) are completed. ~~or~~

(2) The date on which the last of any bonds issued **(including any refunding bonds)** or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described in subsection (b) are fully paid.

(3) If the county imposing the tax under this section is a county described in subsection (a)(1), the date on which an ordinance adopted under subsection (c) is rescinded.

(g) The term of the bonds issued (including any refunding bonds) or a lease entered into under subsection (b)(2) may not exceed twenty (20) years.

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

~~(e)~~ **(h)** The county treasurer shall establish a criminal justice facilities revenue fund to be used only for purposes described in this section. County adjusted gross income tax revenues derived from the tax rate imposed under this section shall be deposited in the criminal justice facilities revenue fund before making a certified distribution under section 11 of this chapter.

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

(1) may be used only for the purposes described in this section;

(2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and

(3) may be pledged to the repayment of bonds issued or leases entered into for any or all the purposes described in subsection (b).

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

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

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

~~(3) the redemption of bonds issued; and~~

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

money remaining in the criminal justice facilities revenue fund established under subsection (h) after the tax imposed by this section is terminated under subsection (f) shall be transferred to the county highway fund to be used for construction, resurfacing, restoration, and rehabilitation of county highways, roads, and bridges.

SECTION 2. IC 6-3.5-1.1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Except as provided in subsection (b), one-half (1/2) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 8 of this chapter to the appropriate county treasurer on May 1 and the other one-half (1/2) on November 1 of that calendar year.

(b) This subsection applies to a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000). Notwithstanding section 9 of this chapter, the initial certified distribution certified for a county under section 9 of this chapter shall be distributed to the county treasurer from the account established for the county under section 8 of this chapter according to the following schedule during the eighteen (18) month period beginning on July 1 of the year in which the county initially adopts an ordinance under section 2 of this chapter:

(1) One-fourth (1/4) on October 1 of the year in which the ordinance was adopted.

(2) One-fourth (1/4) on January 1 of the calendar year following the year in which the ordinance was adopted.

(3) One-fourth (1/4) on May 1 of the calendar year following the year in which the ordinance was adopted.

(4) One-fourth (1/4) on November 1 of the calendar year following the year in which the ordinance was adopted.

Notwithstanding section 11 of this chapter, the part of the certified distribution received under subdivision (1) that would otherwise be allocated to a civil taxing unit or school corporation as property tax replacement credits under section 11 of this chapter shall be set aside and treated for the calendar year when received by the civil taxing unit or school corporation as a levy excess subject to IC 6-1.1-18.5-17 or IC 6-1.1-19-1.7. Certified distributions made to the county treasurer for calendar years following the eighteen (18) month period described in this subsection shall be made as provided in subsection (a).

(c) Except for:

(1) revenue that must be used to pay the costs of operating a jail and juvenile detention center under section 2.5(d) of this chapter;

(2) revenue that must be used to pay the costs of:

(A) financing, constructing, acquiring, improving, renovating, ~~or~~ equipping, **operating, or maintaining** facilities and buildings;

(B) debt service on bonds; or

(C) lease rentals;

under section 2.8 of this chapter;

(3) revenue that must be used to pay the costs of construction, improvement, renovation, or remodeling of a jail and related buildings and parking structures under section 2.7, 2.9, or 3.3 of this chapter;

(4) revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter; or

(5) revenue that must be used to pay the costs of constructing, acquiring, improving, renovating, or equipping a county courthouse under section 3.6 of this chapter;

distributions made to a county treasurer under subsections (a) and (b) shall be treated as though they were property taxes that were due and payable during that same calendar year. Except as provided by subsection (b), the certified distribution shall be distributed and used by the taxing units and school corporations as provided in sections 11 through 15 of this chapter.

(d) All distributions from an account established under section 8 of this chapter shall be made by warrants issued by the auditor of the state to the treasurer of the state ordering the appropriate payments.

SECTION 3. IC 6-3.5-1.1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except for:

(1) revenue that must be used to pay the costs of operating a jail and juvenile detention center under section 2.5(d) of this chapter;
(2) revenue that must be used to pay the costs of:
(A) financing, constructing, acquiring, improving, renovating, ~~or~~ equipping, **operating, or maintaining** facilities and buildings;
(B) debt service on bonds; or
(C) lease rentals;
under section 2.8 of this chapter;
(3) revenue that must be used to pay the costs of construction, improvement, renovation, or remodeling of a jail and related buildings and parking structures under section 2.7, 2.9, or 3.3 of this chapter;
(4) revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter; or
(5) revenue that must be used to pay the costs of constructing, acquiring, improving, renovating, or equipping a county courthouse under section 3.6 of this chapter;
the certified distribution received by a county treasurer shall, in the manner prescribed in this section, be allocated, distributed, and used by the civil taxing units and school corporations of the county as certified shares and property tax replacement credits.

(b) Before August 10 of each calendar year, each county auditor shall determine the part of the certified distribution for the next succeeding calendar year that will be allocated as property tax replacement credits and the part that will be allocated as certified shares. The percentage of a certified distribution that will be allocated as property tax replacement credits or as certified shares depends upon the county adjusted gross income tax rate for resident county taxpayers in effect on August 1 of the calendar year that precedes the year in which the certified distribution will be received by two (2) years. The percentages are set forth in the following table:

COUNTY ADJUSTED GROSS INCOME TAX RATE	PROPERTY TAX REPLACEMENT CREDITS	CERTIFIED SHARES
0.5%	50%	50%
0.75%	33 1/3%	66 2/3%
1%	25%	75%

(c) The part of a certified distribution that constitutes property tax replacement credits shall be distributed as provided under sections 12, 13, and 14 of this chapter.

(d) The part of a certified distribution that constitutes certified shares shall be distributed as provided by section 15 of this chapter

SECTION 4. **An emergency is declared for this act.**

(Reference is to ESB 148 as reprinted February 22, 2006.)

RIEGSECKER HEIM
BRODEN OXLEY
Senate Conferees House Conferees

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

OTHER BUSINESS ON THE SPEAKER'S TABLE

MESSAGE FROM THE GOVERNOR

Mr. Speaker and Members of the House: On March 14, 2006, I signed into law House Enrolled Acts 1065, 1103, 1107, 1234, 1249, 1286, and 1331.

MITCHELL E. DANIELS, JR.
Governor

MESSAGE FROM THE GOVERNOR

Mr. Speaker and Members of the House: On March 14, 2006, I signed into law House Enrolled Act 1279.

MITCHELL E. DANIELS, JR.
Governor

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 1080:

Conferees: Drozda and Sipes
Advisors: Lubbers and Skinner

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 President Pro Tempore of the Senate has appointed the following Senators a conference committee to confer on Engrossed House Bill 1315:

Conferees: Hershman and Hume
Advisors: Wyss and Rogers

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 1 on Engrossed House Bills 1016, 1018, 1025, 1029, and 1099 and Conference Committee Report 2 on Engrossed House Bill 1010.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1102.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1155.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1235.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed Senate Bill 12.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed Senate 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 accepted and approved the Joint Rule 20 correction on Engrossed Senate Bill 47.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I hereby transmit Senate Enrolled Act 231 for

signature of the Speaker of the House.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I hereby transmit Senate Enrolled Act 235 for signature of the Speaker of the House.

MARY C. MENDEL
Principal Secretary of the Senate

ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS

Engrossed House Bill 1018–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 12 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1018–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 12 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1018–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 452: yeas 89, nays 0. Report adopted.

Engrossed House Bill 1029–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 12 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1029–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 12 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1029–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 453: yeas 88, nays 0. Report adopted.

The Speaker yielded the gavel to Representative Robert A. Hoffman, who is retiring from legislative service.

RESOLUTIONS ON SECOND READING

House Resolution 34

The Chair handed down on its passage House Resolution 34, introduced by Representatives Crawford, Yount, Thomas, Porter, C. Brown, Mays, Summers, Dickinson, V. Smith, and Aguilera:

A HOUSE RESOLUTION urging Hoosiers to be aware of the dangers of diabetes.

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

Representative Hoffman yielded the gavel to the Speaker.

ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS

Engrossed House Bill 1099–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 14 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1099–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 14 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1099–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. On the motion of Representative Grubb the previous question was called. Representative Turner was excused from voting, pursuant to House Rule 46. Roll Call 454: yeas 59, nays 35. Report adopted.

A meeting of the Committee on Rules and Legislative Procedures was announced; Representatives Foley, Frizzell, E. Harris, Pelath, Turner, and Whetstone were excused.

Engrossed House Bill 1110–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 3 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1110–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following

conference committee report may be laid over on the members' desks for 3 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1110–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 455: yeas 88, nays 1. Report adopted.

The Speaker yielded the gavel to Representative Thomas S. Kromkowski, who is retiring from legislative service.

RESOLUTIONS ON SECOND READING

House Resolution 35

The Chair handed down on its passage House Resolution 35, introduced by Representative Borders:

A HOUSE RESOLUTION to urge the Congress of the United States to give due consideration to the readiness of the Republic of China on Taiwan for membership in the United Nations.

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

Representative Kromkowski yielded the gavel to the Speaker.

Representatives T. Brown, Burton, Oxley, and Stilwell were excused.

ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS

Engrossed House Bill 1155–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 11 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1155–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 11 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1155–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 456: yeas 88, nays 0. Report adopted.

Representatives Heim and Thompson were excused

Engrossed House Bill 1235–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 11 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1235–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 11 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1235–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. On the motion of Representative Messer the previous question was called. Roll Call 457: yeas 78, nays 7. Report adopted.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
EHB 1315–1; filed March 14, 2006, at 2:44 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 1315 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 utilities and transportation.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 8-1-34-16, AS ADDED BY HEA 1279-2006, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) Except as provided in section 21 of this chapter, after June 30, 2006:

(1) the commission is the sole franchising authority (as defined in 47 U.S.C. 522(10)) for the provision of video service in Indiana; and

(2) a unit may not:

(A) require a provider to obtain a separate franchise; or

(B) impose any fee, gross receipt tax, licensing requirement, rate regulation, or build-out requirement on a provider;

except as authorized by this chapter.

(b) Except as provided in section 21 of this chapter, a person who seeks to provide video service in Indiana after June 30, 2006, shall file with the commission an application for a franchise. The application shall be made on a form prescribed by the commission and must include the following:

(1) A sworn affidavit, signed by an officer or another person authorized to bind the applicant, that affirms the following:

(A) That the applicant has filed or will timely file with the Federal Communications Commission all forms required by the Federal Communications Commission before offering video service in Indiana.

(B) That the applicant agrees to comply with all federal and state statutes, rules, and regulations applicable to the operation of the applicant's video service system.

(C) That the applicant agrees to:

(i) comply with any local ordinance or regulation governing the use of public rights-of-way in the delivery of video service; and

(ii) recognize the police powers of a unit to enforce the ordinance or regulation.

(D) If the applicant will terminate an existing local franchise under section 21 of this chapter, that the applicant agrees to perform any obligations owed to any private person, ~~under~~

~~the terminated franchise until such time as the local franchise would otherwise terminate or expire,~~ as required by section 22 of this chapter.

(2) The applicant's legal name and any name under which the applicant does or will do business in Indiana, as authorized by the secretary of state.

(3) The address and telephone number of the applicant's principal place of business, along with contact information for the person responsible for ongoing communications with the commission.

(4) The names and titles of the applicant's principal officers.

(5) The legal name, address, and telephone number of the applicant's parent company, if any.

(6) A description of each service area in Indiana to be served by the applicant. A service area described under this subdivision may include an unincorporated area in Indiana.

(7) The expected date for the deployment of video service in each of the areas identified in subdivision (6).

(8) A list of other states in which the applicant provides video service.

(9) If the applicant will terminate an existing local franchise under section 21(b) of this chapter, a copy of the written notice sent to the municipality under section 21(c) of this chapter.

(10) Any other information the commission considers necessary to:

(A) monitor the provision of video service to Indiana customers; and

(B) prepare the commission's annual report to the regulatory flexibility committee under IC 8-1-2.6-4.

This subsection does not empower the commission to require an applicant to disclose confidential and proprietary business plans and other confidential information without adequate protection of the information. The commission shall exercise all necessary caution to avoid disclosure of confidential information supplied under this subsection.

(c) The commission may charge a fee for filing an application under this section. Any fee charged by the commission under this subsection may not exceed the commission's actual costs to process and review the application under section 17 of this chapter.

SECTION 2. IC 8-1-34-22, AS ADDED BY HEA 1279-2006, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) A provider that elects to terminate a local franchise under section 21 of this chapter remains subject to the contractual rights, duties, and obligations incurred by the provider ~~under the terms and conditions of the terminated local franchise~~ that are owed to any private person. ~~including a subscriber.~~

~~(b) The obligations that a provider owes to a private person under subsection (a) include any obligations based on the gross income received by the provider:~~

~~(1) after the provider becomes a holder of a certificate under this chapter; and~~

~~(2) for video service provided in the service area covered by the terminated local franchise;~~

~~if, under the terms of the terminated local franchise, the obligations would have been based on the gross income received by the provider for video service provided in the service area covered by the terminated local franchise.~~

~~(c)~~ **(b)** All liens, security interests, royalties, and other contracts, rights, and interests ~~arising out of the terminated local franchise and~~ owed to a private person, shall:

(1) continue in full force and effect without the need for renewal, extension, or continuance; **and**

(2) be paid or performed by the provider after becoming a holder of a certificate under this chapter. ~~and~~

~~(3) apply as though the gross revenue of the provider continued to be generated under the terminated local franchise with respect to any revenue generated in the service area covered by the terminated local franchise.~~

~~(d)~~ **(c)** The commission shall condition the issuance or renewal of a certificate under this chapter on a provider's payment and performance of the rights, duties, and obligations described in this section. ~~until the time the terminated local franchise would ordinarily terminate or expire if the provider had not made the election under section 21 of this chapter.~~ In applying for an initial certificate or a renewal certificate under this chapter, a provider shall agree to pay or perform the obligations described in this section, as required by section 16(b)(1)(D) of this chapter.

~~(e)~~ **(d)** A private person that claims to be:

(1) owed any rights, duties, or obligations by a holder under this section; and

(2) aggrieved by a holder's alleged violation of this section;

may bring an action in a court with jurisdiction to enforce the rights, duties, or obligations claimed to be owed to the person.

~~(f)~~ **(e)** As used in this section, "private person" does not include:

(1) the unit that issued the terminated local franchise;

(2) a political subdivision (as defined in IC 36-1-2-13) not described in subdivision (1); or

(3) any official, agent, or employee of:

(A) the unit that issued the terminated local franchise; or

(B) a political subdivision described in subdivision (2);

in the individual's official capacity.

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

(Reference is to EHB 1315 as reprinted February 28, 2006.)

THOMPSON	HERSHMAN
HOY	HUME
House Conferees	Senate Conferees

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

CONFEREES AND ADVISORS APPOINTED

The Speaker announced the following changes in appointment of Representatives as conferees and advisors:

EHB 1362 Conferees: Yount replacing Mahern

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 4:05 p.m. with Representative A. Lucas Messer, who is retiring from legislative service, in the Chair.

Representatives T. Brown, Burton, Foley, Frizzell, E. Harris, Heim, Oxley, Pelath, Stilwell, Thompson, Turner, and Whetstone, who had been excused, were present. Representative Walorski was excused.

RESOLUTIONS ON SECOND READING

House Resolution 46

The Chair handed down on its passage House Resolution 46, introduced by Representatives Dobis, Aguilera, Cheney, Kuzman, Lehe, Stevenson, C. Brown, E. Harris, Ayres, L Lawson, and V. Smith:

A HOUSE RESOLUTION urging the Northwest Indiana Regional Development Authority to begin spending the money allocated to it in HEA 1120-2005 before receiving approval of its strategic plan.

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

Representative Messer yielded the gavel to the Speaker.

CONFEREES AND ADVISORS APPOINTED

The Speaker announced the following changes in appointment of Representatives as conferees and advisors:

EHB 1172 Conferees: Woodruff replacing E. Harris

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT

ESB 345–1; filed March 14, 2006, at 4:01 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 345 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 6-1.1-21-10, AS AMENDED BY HEA 1040-2006, SECTION 139, AND AS AMENDED BY HEA 1134-2006, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 10. (a) There is established a property tax replacement fund board to consist of the commissioner of the department, the commissioner of the department of local government finance, the director of the budget agency, and two (2) ex officio nonvoting representatives of the general assembly of the state of Indiana. The speaker of the house of representatives shall appoint one (1) member of the house as one (1) of the ex officio nonvoting representatives, and the president pro tempore of the senate shall appoint one (1) senator as the other ex officio nonvoting representative, each to serve at the will of the appointing officer. The commissioner of the department shall be the chairman of the board, and the director of the budget agency shall be the secretary of the board.

(b) The schedule to be used in making distributions to county treasurers during the periods set forth in section 4(b) of this chapter is as follows:

January	0.00%
February	0.00%
March	16.70%
April	16.70%
May	~~0.00%~~ **6.20%**
June	0.00%
July	~~16.60%~~ **10.40%**
August	0.00%
September	16.70%
October	16.70%
November	16.60%
December	0.00%

The board may authorize the department to distribute the estimated distributions to counties earlier than what is required under section 4(b) of this chapter.

(c) The board is also authorized to transfer funds from the property tax replacement fund for the purpose of providing state tuition support distributions to school corporations as provided in IC 20-20-33 and IC 20-43.

SECTION 2. [EFFECTIVE JULY 1, 2006] **(a) The purpose of this SECTION is to reduce accrued payment delay balances that were created because of the amendment to IC 6-1.1-21-10 made by P.L.192-2002(ss), SECTION 43, to move the May distribution to July beginning with the May 2003 distribution and a continuation of the practice of delayed payments in subsequent years.**

(b) There is appropriated to the property tax replacement board one hundred thirty-six million five hundred thousand dollars ($136,500,000) from the state general fund and the property tax replacement fund, in the percentage determined by the budget agency, for its use to distribute the amount of the increase in the May 2007 distribution required under IC 6-1.1-21-10, as amended by this act, beginning July 1, 2006, and ending June 30, 2007.

(c) A distribution described in subsection (b) raises the maximum permissible distribution for property tax replacement credits and homestead credits that may be made in the state fiscal year beginning July 1, 2006, and ending June 30, 2007, by the amount of the distribution.

(d) A distribution described in subsection (b) shall be treated as a distribution under IC 6-1.1-21 for the calendar year in which the distribution is made. An early additional distribution described in subsection (b) reduces the amount of the distribution that would otherwise have been made in July 2007 under IC 6-1.1-21-10, as effective before the amendment made by this act, by the amount of the additional distribution.

SECTION 3. [EFFECTIVE JULY 1, 2006] **(a) The purpose of this SECTION is to reduce accrued payment delay balances to state educational institutions and IHETS that were created because of the distribution of eleven-twelfths (11/12) of the budgeted amount in the state fiscal year ending June 30, 2002, and a continuation of the practice of delayed payments in subsequent state fiscal years through the state fiscal year ending June 30, 2005.**

(b) The following definitions apply throughout this SECTION:

(1) "IHETS" refers to the Indiana Higher Education Telecommunications System.

(2)"State educational institution" has the meaning set forth in IC 20-12-0.5-1.

(c) There is appropriated to the budget agency forty million dollars ($40,000,000) from the state general fund for its use for general repair and rehabilitation or for repair and rehabilitation of dormitories or other student housing of state educational institutions, beginning July 1, 2006, and ending June 30, 2007, as follows:

INDIANA UNIVERSITY - TOTAL SYSTEM	**$15,667,060**
PURDUE UNIVERSITY - TOTAL SYSTEM	**10,795,022**
INDIANA STATE UNIVERSITY	**2,399,680**
UNIVERSITY OF SOUTHERN INDIANA	**1,225,670**
BALL STATE UNIVERSITY	**4,077,062**
VINCENNES UNIVERSITY	**1,190,030**
IVY TECH COMMUNITY COLLEGE OF INDIANA	**4,645,476**
	$40,000,000

(d) Notwithstanding P.L.246-2005, SECTION 32, after review by the budget committee, the budget agency shall distribute to a state educational institution after June 30, 2006, and before July 1, 2007, the amount appropriated to the state educational institution under subsection (c). The distributions under subsection (c):

(1) may be made in one (1) or more installments after June 30, 2006, and before July 1, 2007, on the schedule determined by the budget agency after review of the schedule by the budget committee; and

(2) shall be separately allotted.

(e) An appropriation under subsection (c) is in addition to the appropriations for general repair and rehabilitation made in P.L.246-2005, SECTION 32, or any other law. Notwithstanding any other law, an appropriation under subsection (c) does not revert to the general fund under IC 4-13-2-19.

(f) The amount appropriated under subsection (c), when distributed to a state educational institution, shall be treated as reducing any claim that the total system of the state educational institution has to one-twelfth (1/12) of the amount budgeted for the state educational institution in all line items in HEA 1001-2003, SECTION 9, for the state fiscal year ending June 30, 2005. Subject to subsection (g), the amount of the claim reduction for each state educational institution is equal to the amount distributed to the state educational institution. The amount of the claim reduction for the entire system and the amount apportioned for each institution individually shall be computed by the budget agency. The budget agency makes the final determination.

(g) An amount appropriated under subsection (c), when distributed to Indiana University, shall be treated as reducing any claim that IHETS has to one-twelfth (1/12) of the amount budgeted for the IHETS in all line items in HEA 1001-2003, SECTION 9, for the state fiscal year ending June 30, 2005. The amount of the claim reduction is a part of the amount distributed to Indiana University-Total System apportioned as determined by the budget agency.

(Reference is to ESB 345 as reprinted February 28, 2006.)

MEEKS	ESPICH
SIMPSON	COCHRAN
Senate Conferees	House Conferees

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

ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS

Engrossed House Bill 1392–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 11 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1392–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 11 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1392–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Representative Murphy was excused from voting, pursuant to House Rule 46. Roll Call 458: yeas 90, nays 1. Report adopted.

Representative Cheney was excused.

Engrossed Senate Bill 12–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 10 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 12–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 10 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 12–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 459: yeas 94, nays 0. Report adopted.

Engrossed Senate Bill 41–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 10 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 41–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 10 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 41–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 460: yeas 95, nays 0. Report adopted.

Engrossed Senate Bill 47–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 11 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 47–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 11 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 47–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 461: yeas 93, nays 0. Report adopted.

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Turner.

Engrossed Senate Bill 83–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 12 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 83–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following

conference committee report may be laid over on the members' desks for 12 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 83–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 462: yeas 88, nays 5. Report adopted.

Engrossed Senate Bill 87–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 3 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 87–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 3 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 87–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 463: yeas 92, nays 1. Report adopted.

Engrossed Senate Bill 139–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 12 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 139–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 12 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 139–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 464: yeas 92, nays 1. Report adopted.

Engrossed Senate Bill 259–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 12 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 259–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 12 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 259–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 465: yeas 87, nays 7. Report adopted.

Engrossed Senate Bill 284–1

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 is eligible for consideration after March 2: Engrossed Senate Bill 284–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2: Engrossed Senate Bill 284–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 466: yeas 95, nays 0. Report adopted.

Engrossed Senate Bill 303–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 3 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 303–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 3 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 303–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 467:

yeas 92, nays 0. Report adopted.

Engrossed Senate Bill 333–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 11 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 333–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 11 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 333–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 468: yeas 88, nays 5. Report adopted.

Engrossed Senate Bill 340–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 14 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 340–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 14 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 340–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Representative Crawford was excused from voting, pursuant to House Rule 46. Roll Call 469: yeas 90, nays 0. Report adopted.

Representative Bauer was excused.

Engrossed House Bill 1114–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 12 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1114–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 12 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1114–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Representatives T. Harris and Whetstone were excused from voting, pursuant to House Rule 46. Roll Call 470: yeas 77, nays 14. Report adopted.

Engrossed House Bill 1214–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 3 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1214–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 3 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1214–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 471: yeas 70, nays 21. Report adopted.

Representatives Friend and Whetstone were excused.

Engrossed House Bill 1287–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1287–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 1 hours, all so that the following conference committee report may

be eligible to be placed before the House for action: Engrossed House Bill 1287–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 472: yeas 81, nays 9. Report adopted.

Engrossed House Bill 1323–2

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 is eligible for consideration after March 2 and that Rule 164.3 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 1323–2.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 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 1323–2.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 473: yeas 87, nays 2. Report adopted.

Representative Friend, who had been excused, was present.

Engrossed House Bill 1380–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 5 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1380–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 5 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1380–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 474: yeas 91, nays 1. Report adopted.

Engrossed Senate Bill 148–1

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 is eligible for consideration after March 2 and that Rule 164.3 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 148–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 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 148–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 475: yeas 55, nays 36. Report adopted.

The Speaker Pro Tempore yielded the gavel to the Speaker.

Engrossed Senate Bill 349–1

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 is eligible for consideration after March 2 and that Rule 164.3 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 Senate Bill 349–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 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 Senate Bill 349–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Representative T. Harris was excused from voting, pursuant to House Rule 46. Roll Call 476: yeas 93, nays 0. Report adopted.

Representatives Bauer, Cheney, Walorski, and Whetstone, who had been excused, were present.

MOTIONS TO CONCUR IN SENATE AMENDMENTS

HOUSE MOTION

Mr. Speaker: I move that the House concur in the Senate amendments to Engrossed House Bill 1006.

NOE

Roll Call 477: yeas 51, nays 47. Motion prevailed.

OTHER BUSINESS ON THE SPEAKER'S TABLE

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that pursuant to Rule 81(c) of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has made the following change in conferees appointments to Engrossed House Bill 1362:

Conferees: Delph replacing Broden

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 1 on Engrossed Senate Bills 83, 139, 168, 172, and 193.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I hereby transmit Senate Enrolled Act s 112, 338, and 339 for signature of the Speaker of 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 House Concurrent Resolution 72 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 59 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

RESOLUTIONS ON FIRST READING

House Resolution 89

Representative Reske introduced House Resolution 89:

A HOUSE RESOLUTION honoring Lance Corporal Tom Kraeszig, assigned to Second Battalion, Fourth Marine Regiment, First Marine Division, during Operation Iraqi Freedom.

Whereas, The men and women of the United States Marine Corps have proudly served their country in war and peace since the American Revolution;

Whereas, The Marines of Second Battalion, Fourth Marine Regiment, First Marine Division, distinguished themselves by showing gallantry and bravery at the risk of their lives above and beyond the call of duty while engaged in action against the enemy;

Whereas, Lance Corporal Tom Kraeszig was assigned to Second Battalion, Fourth Marine Regiment, First Marine Division, during a period of intense combat in the Anabar Province, Iraq;

Whereas, Lance Corporal Tom Kraeszig displayed courage, valor, and bravery while engaged in combat; and

Whereas, The history of the Marine Corps is a long and proud heritage of faithful service to the United States; and Lance Corporal Tom Kraeszig of the Second Battalion, Fourth Marine Regiment, First Marine Division, displayed the proud character of a United States Marine: 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 recognizes the courage, valor, and honor displayed by Lance Corporal Tom Kraeszig, Second Battalion, Fourth Marine Regiment, First Marine Division, during Operation Iraqi Freedom.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Lance Corporal Tom Kraeszig.

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

House Resolution 90

Representative Reske introduced House Resolution 90:

A HOUSE RESOLUTION honoring Staff Sergeant Damean Rodriguez, assigned to Second Battalion, Fourth Marine Regiment, First Marine Division, during Operation Iraqi Freedom.

Whereas, The men and women of the United States Marine Corps have proudly served their country in war and peace since the American Revolution;

Whereas, The Marines of Second Battalion, Fourth Marine Regiment, First Marine Division, distinguished themselves by showing gallantry and bravery at the risk of their lives above and beyond the call of duty while engaged in action against the enemy;

Whereas, Staff Sergeant Damean Rodriguez was assigned to Second Battalion, Fourth Marine Regiment, First Marine Division, during a period of intense combat in the Anabar Province, Iraq;

Whereas, Staff Sergeant Damean Rodriguez displayed courage, valor, and bravery while engaged in combat; and

Whereas, The history of the Marine Corps is a long and proud heritage of faithful service to the United States; and Staff Sergeant Damean Rodriguez of the Second Battalion, Fourth Marine Regiment, First Marine Division, displayed the proud character of a United States Marine: 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 recognizes the courage, valor, and honor displayed by Staff Sergeant Damean Rodriguez, Second Battalion, Fourth Marine Regiment, First Marine Division, during Operation Iraqi Freedom.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Staff Sergeant Damean Rodriguez.

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

House Resolution 91

Representative Reske introduced House Resolution 91:

A HOUSE RESOLUTION honoring Corporal Joseph Hayes, assigned to Second Battalion, Fourth Marine Regiment, First Marine Division, during Operation Iraqi Freedom.

Whereas, The men and women of the United States Marine Corps have proudly served their country in war and peace since the American Revolution;

Whereas, The Marines of Second Battalion, Fourth Marine Regiment, First Marine Division, distinguished themselves by showing gallantry and bravery at the risk of their lives above and beyond the call of duty while engaged in action against the enemy;

Whereas, Corporal Joseph Hayes was assigned to Second Battalion, Fourth Marine Regiment, First Marine Division, during a period of intense combat in the Anabar Province, Iraq;

Whereas, Corporal Joseph Hayes displayed courage, valor, and bravery while engaged in combat; and

Whereas, The history of the Marine Corps is a long and proud heritage of faithful service to the United States; and Corporal Joseph Hayes of the Second Battalion, Fourth Marine Regiment, First Marine Division, displayed the proud character of a United States Marine: 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 recognizes the courage, valor, and honor displayed by Corporal Joseph Hayes, Second Battalion, Fourth Marine Regiment, First

Marine Division, during Operation Iraqi Freedom.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Corporal Joseph Hayes.

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

House Resolution 92

Representative Reske introduced House Resolution 92:

A HOUSE RESOLUTION honoring Captain Rob Scott, assigned to Second Battalion, Fourth Marine Regiment, First Marine Division, during Operation Iraqi Freedom.

Whereas, The men and women of the United States Marine Corps have proudly served their country in war and peace since the American Revolution;

Whereas, The Marines of Second Battalion, Fourth Marine Regiment, First Marine Division, distinguished themselves by showing gallantry and bravery at the risk of their lives above and beyond the call of duty while engaged in action against the enemy;

Whereas, Captain Rob Scott was assigned to Second Battalion, Fourth Marine Regiment, First Marine Division, during a period of intense combat in the Anabar Province, Iraq;

Whereas, Captain Rob Scott displayed courage, valor, and bravery while engaged in combat; and

Whereas, The history of the Marine Corps is a long and proud heritage of faithful service to the United States; and Captain Rob Scott of the Second Battalion, Fourth Marine Regiment, First Marine Division, displayed the proud character of a United States Marine: 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 recognizes the courage, valor, and honor displayed by Captain Rob Scott, Second Battalion, Fourth Marine Regiment, First Marine Division, during Operation Iraqi Freedom.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Captain Rob Scott.

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

House Resolution 93

Representative Reske introduced House Resolution 93:

A HOUSE RESOLUTION honoring Lance Corporal Peter Flom, assigned to Second Battalion, Fourth Marine Regiment, First Marine Division, during Operation Iraqi Freedom.

Whereas, The men and women of the United States Marine Corps have proudly served their country in war and peace since the American Revolution;

Whereas, The Marines of Second Battalion, Fourth Marine Regiment, First Marine Division, distinguished themselves by showing gallantry and bravery at the risk of their lives above and beyond the call of duty while engaged in action against the enemy;

Whereas, Lance Corporal Peter Flom was assigned to Second Battalion, Fourth Marine Regiment, First Marine Division, during a period of intense combat in the Anabar Province, Iraq;

Whereas, Lance Corporal Peter Flom displayed courage, valor, and bravery while engaged in combat; and

Whereas, The history of the Marine Corps is a long and proud heritage of faithful service to the United States; and Lance Corporal Peter Flom of the Second Battalion, Fourth Marine Regiment, First Marine Division, displayed the proud character of a United States Marine: 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 recognizes the courage, valor, and honor displayed by Lance Corporal Peter Flom, Second Battalion, Fourth Marine Regiment, First Marine Division, during Operation Iraqi Freedom.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Lance Corporal Peter Flom.

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

House Resolution 94

Representative Reske introduced House Resolution 94:

A HOUSE RESOLUTION honoring Sergeant Jon Embrey, assigned to Second Battalion, Fourth Marine Regiment, First Marine Division, during Operation Iraqi Freedom.

Whereas, The men and women of the United States Marine Corps have proudly served their country in war and peace since the American Revolution;

Whereas, The Marines of Second Battalion, Fourth Marine Regiment, First Marine Division ,distinguished themselves by showing gallantry and bravery at the risk of their lives above and beyond the call of duty while engaged in action against the enemy;

Whereas, Sergeant Jon Embrey was assigned to Second Battalion, Fourth Marine Regiment, First Marine Division, during a period of intense combat in the Anabar Province, Iraq;

Whereas, Sergeant Jon Embrey displayed courage, valor, and bravery while engaged in combat; and

Whereas, The history of the Marine Corps is a long and proud heritage of faithful service to the United States; and Sergeant Jon Embrey of the Second Battalion, Fourth Marine Regiment, First Marine Division, displayed the proud character of a United States Marine: 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 recognizes the courage, valor, and honor displayed by Sergeant Jon Embrey, Second Battalion, Fourth Marine Regiment, First Marine Division, during Operation Iraqi Freedom.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Sergeant Jon Embrey.

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

House Resolution 95

Representative Reske introduced House Resolution 95:

A HOUSE RESOLUTION honoring Captain Christopher Bronzi, assigned to Second Battalion, Fourth Marine Regiment, First Marine Division, during Operation Iraqi Freedom.

Whereas, The men and women of the United States Marine Corps have proudly served their country in war and peace since the American Revolution;

Whereas, The Marines of Second Battalion, Fourth Marine Regiment, First Marine Division, distinguished themselves by showing gallantry and bravery at the risk of their lives above and beyond the call of duty while engaged in action against the enemy;

Whereas, Captain Christopher Bronzi was assigned to Second Battalion, Fourth Marine Regiment, First Marine Division, during a period of intense combat in the Anabar Province, Iraq;

Whereas, Captain Christopher Bronzi displayed courage, valor, and bravery while engaged in combat; and

Whereas, The history of the Marine Corps is a long and proud heritage of faithful service to the United States; and Captain Christopher Bronzi of the Second Battalion, Fourth Marine Regiment, First Marine Division, displayed the proud character of a United States Marine: 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 recognizes the courage, valor, and honor displayed by Captain Christopher Bronzi, Second Battalion, Fourth Marine Regiment, First

Marine Division, during Operation Iraqi Freedom.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Captain Christopher Bronzi.

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

House Resolution 96

Representatives Ruppel and Turner introduced House Resolution 96:

A HOUSE RESOLUTION honoring Jessica A. Quear.

Whereas, Nineteen-year-old Jessica A. Quear is the 2005-2006 Indiana FFA state northern region vice president;

Whereas, As state northern region vice president, Jessica will spend the coming year traveling the state promoting agricultural education and the FFA, speaking to more than 9,000 students and FFA supporters, presenting numerous workshops and conferences, and participating in goodwill tours;

Whereas, In addition to these duties, Jessica is responsible for developing relationships with leaders in the government, education, business, and agriculture sectors;

Whereas, Jessica has been an active member of the FFA at the chapter, district, state, and national levels, serving as chapter president and section II director;

Whereas, Jessica has attended several leadership conferences, including the Premier Leadership Training, Leadership Development Workshop, SOAR, F.I.R.E., and Summer Challenge;

Whereas, Jessica has participated in several career development events and in evaluations of soils, meats, crops, and livestock;

Whereas, As a freshman, Jessica was given the opportunity to compete at a national soils contest in Oklahoma, and she has participated in the extemporaneous speaking, horticulture demonstration, creed speaking, quiz bowl, chapter meeting, and Female Ambassador contest, placing in the top four in each contest;

Whereas, Jessica's supervised agricultural experience is sheep production, expanding her flock to four times the size over the past four years; and

Whereas, After serving the Indiana FFA and its members, Jessica plans to attend Purdue University and major in agriculture economics; after graduating from Purdue University, she plans to study law with a goal of pursuing a career in agricultural policy: 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 Jessica A. Quear on her selection as the 2005-2006 Indiana FFA state northern region vice president and wishes her success at Purdue University.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit copies of this resolution to Jessica A. Quear and her parents, Douglas and Teresa Quear.

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

House Resolution 97

Representatives Ruppel and Thompson introduced House Resolution 97:

A HOUSE RESOLUTION honoring David E. Mohler.

Whereas, Eighteen-year-old David E. Mohler is the 2005-2006 Indiana FFA state treasurer;

Whereas, As state treasurer, David will spend the coming year traveling the state promoting agricultural education and the FFA, speaking to more than 9,000 students and FFA supporters, presenting numerous workshops and conferences, and participating in goodwill tours;

Whereas, In addition to these duties, David is responsible for developing relationships with leaders in government, education, business, and agriculture sectors;

Whereas, David has been an active member of the FFA at the chapter, district, state, and national levels, serving as chapter vice president, sentinel, assistant reporter, district IV treasurer, and vice president;

Whereas, David has attended several leadership conferences, including the Premier Leadership Training, Leadership Development Workshop, and served as a counselor at Seeking Opportunities: Achieving Results and the Washington Leadership Conference;

Whereas, David's participation in the FFA has allowed him to receive honors such as the Chapter Scholarship Award, the Star Farmers, and the WILO Determination Award;

Whereas, David has participated in several career development events on the chapter, district, and state levels, including the Agricultural Issues and Extemporaneous Public Speaking Contest, the Essay, Agricultural Issues, Entomology Judging, and Male Leadership Ambassador; David was on the fourth place team at the National Land Judging contest in Oklahoma;

Whereas, David's supervised agricultural experience is forage production, custom baling ten acres of hay and 60 acres of straw; and

Whereas, After serving the Indiana FFA and its members, David plans to attend Purdue University or the University of Hawaii at Hilo and major in agriculture education with a goal of teaching high school agriculture in central Indiana: 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 David E. Mohler on his selection as the 2005-2006 Indiana FFA state treasurer and wishes him success at whatever university he attends.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit copies of this resolution to David E. Mohler and his parents, Allen and Jane Mohler.

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

House Resolution 98

Representatives Ruppel and Cherry introduced House Resolution 98:

A HOUSE RESOLUTION honoring Bruce L. Cooley.

Whereas, Eighteen-year-old Bruce L. Cooley is the 2005-2006 Indiana FFA state president;

Whereas, As state president, Bruce will spend the coming year traveling the state promoting agricultural education and the FFA, speaking to more than 9,000 students and FFA supporters, presenting numerous workshops and conferences, and participating in goodwill tours;

Whereas, In addition to these duties, Bruce is responsible for developing relationships with leaders in government, education, business, and agriculture;

Whereas, Bruce has been an active member of the FFA at the chapter, district, state, and national levels, serving as chapter vice president, chapter president, district vice president, and district president;

Whereas, Bruce has attended several leadership conferences, including the Washington Leadership Conference, Premier Leadership Training, F.I.R.E., Leadership Development Workshop, Made for Excellence, and Advanced Leadership Development, and participated in the National Agricultural Ambassador Program;

Whereas, Bruce has participated in several career development events, including the freshmen Creed speaking, crops, dairy judging, livestock judging, and natural resource demonstration; he has also participated in and placed in the top four in several contests, including the soils evaluation, extemporaneous public speaking, and Leadership Ambassador;

Whereas, Bruce's supervised agricultural experience is Equine Placement; and

Whereas, After serving the Indiana FFA and its members, Bruce plans to attend Purdue University and major in agriculture engineering with a goal of pursuing a career in the field of agriculture: 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 Bruce L. Cooley on his selection as the 2005-2006 Indiana FFA state president and wishes him success at Purdue University.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit copies of this resolution to Bruce L. Cooley and his parents, Newt and Alice Cooley.

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

House Resolution 99

Representative Ruppel introduced House Resolution 99:

A HOUSE RESOLUTION honoring Melinda Salmons.

Whereas, Eighteen-year-old Melinda Salmons is the 2005-2006 Indiana FFA state reporter.

Whereas, Melinda is the daughter of Debie and John Salmons;

Whereas, While in office, Melinda will speak to over 9,000 students and FFA supporters, present numerous workshops and conferences, and participate in goodwill tours throughout the state;

Whereas, Over the past four years of FFA membership, Melinda has been active on the chapter, district, and state levels and has served as a chapter officer for three years, as well as District President and Secretary;

Whereas, Melinda's supervised Agriculture Experience involved writing for a local newspaper where she would compose, edit, proofread, and submit articles; and

Whereas, After serving the Indiana FFA Organization and its members, Melinda looks forward to attending Bethel College to major in secondary English education, with a double minor in political science and pre-law: 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 Melinda Salmons on her selection as the 2005-2006 state reporter for the Indiana Future Farmers of America and wishes her success at Bethel College.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit copies of this resolution to Melinda Salmons and her parents, Debie and John Salmons.

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

House Resolution 100

Representatives Ruppel and Borders introduced House Resolution 100:

A HOUSE RESOLUTION to honor Sawyer Sparks.

Whereas, Eighteen-year-old Sawyer Sparks is the 2005-2006 Indiana FFA state southern region vice president;

Whereas, Sawyer is the son of Ron and Sue Sparks;

Whereas, While in office, Sawyer will speak to over 9,000 students and FFA supporters, present numerous workshops and conferences, and participate in goodwill tours throughout the state;

Whereas, One of Sawyer's responsibilities as a state officer is to develop relationships with leaders in the government, education, business, and agriculture sectors;

Whereas, Over the past four years, Sawyer has been active on the chapter, district, state, and national level and has served as the chapter president and reporter as well as the district president and reporter;

Whereas, Sawyer's supervised agricultural experience is beef production and he has expanded his beef production project by working closely with his father on the family farm;

Whereas, He also raises horses for show purposes for 4-H and open shows; and

Whereas, After serving the Indiana FFA Organization, Sawyer plans to attend Vincennes University to major in agriculture and then plans on attending Purdue University to double major in agriculture sales, marketing and agriculture education: 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 Sawyer Sparks on his selection as the 2005-2006 state southern region vice president for the Indiana Future Farmers of America and wishes him success at Vincennes University and Purdue University.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit copies of this resolution to Sawyer Sparks and his parents, Ron and Sue Sparks.

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

House Resolution 101

Representatives Ruppel and Ripley introduced House Resolution 101:

A HOUSE RESOLUTION honoring Nathan Lehman.

Whereas, Eighteen-year-old Nathan Lehman is the 2005-2006 Indiana FFA state sentinel;

Whereas, Nathan is the son of Sondra and Jeff Lehman;

Whereas, While in office, Nathan will speak to over 9,000 students and FFA supporters, present numerous workshops and conferences, and participate in goodwill tours throughout the state;

Whereas, Over the past four years of FFA membership, Nathan has been active on the chapter, district, state, and national level and has served as chapter vice president, reporter, sentinel, and district president and secretary;

Whereas, Nathan's supervised agricultural experience is agricultural placement;

Whereas, Nathan has expanded his agriculture placement working closely with his family on their feed and grain elevator; and

Whereas, After serving the Indiana FFA organization and its members, Nathan looks forward to attending the University of Northwestern Ohio and major in agricultural business and marketing technology: 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 Nathan Lehman on his selection as the 2005-2006 state sentinel for the Indiana Future Farmers of America and wishes him success at the University of Northwestern Ohio.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit copies of this resolution to Nathan Lehman and his parents, Sondra and Jeff Lehman.

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

House Resolution 102

Representative Ruppel introduced House Resolution 102:

A HOUSE RESOLUTION honoring Shawn Gearhart.

Whereas, Eighteen-year-old Shawn Gearhart is the 2005-2006 Indiana FFA state secretary;

Whereas, Shawn is the son of Robert and Pam Gearhart;

Whereas, While in office, Shawn will speak to over 9,000 students and FFA supporters, present numerous workshops and conferences, and participate in goodwill tours throughout the state;

Whereas, As a state officer, Shawn will develop relationships with leaders in the government, education, business, and agriculture sectors;

Whereas, over the past four years of FFA membership, Shawn has been active on the chapter, district, state, and national level and has

served as his chapter's secretary and vice president, as well as district treasurer;

Whereas, Shawn has received a silver emblem at the national convention for his work in his proficiency;

Whereas, Shawn's supervised agriculture experience in forest products and management consisted of working at home with forest products and his employment with Mike's Tree Removal; and

Whereas, After serving the Indiana FFA Organization and its members, Shawn looks forward to attending college where he plans to major in agribusiness management and eventually pursue a career in the agricultural sales industry: 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 Shawn Gearhart on his selection as the 2005-2006 State Secretary for the Indiana Future Farmers of America.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit copies of this resolution to Eric Barnard and his parents, Robert and Pam Gearhart.

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

Senate Concurrent Resolution 59

The Speaker handed down Senate Concurrent Resolution 59, sponsored by Representative Buell:

A CONCURRENT RESOLUTION honoring Kevin Wright.

Whereas, Kevin Wright, coach of Warren Central High School's football team, Indiana's Class 5A high school football champions, will be leaving the school to take a new position at an Oklahoma high school;

Whereas, Under his tenure, the Warren Central Warriors won the past three Class 5A state championships;

Whereas, With this year's victory, Coach Wright and his father (Sheridan coach Bud Wright) became the only father-son duo to win football state championships in the same season;

Whereas, Kevin Wright amassed a 71-12 record in his six seasons at Warren Central;

Whereas, Before coming to Warren Central, Kevin Wright previously coached at Frankfort, Noblesville, and Louisville Trinity and has a 127-49 record in 15 seasons; and

Whereas, Kevin Wright has positively influenced the lives of countless young men and women while serving as head football coach for Warren Central High School; his dedication to young people and his work ethic are a shining example for all students: Therefore,

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

SECTION 1. That the Indiana General Assembly congratulates Kevin Wright on his many accomplishments and his great success while serving as Warren Central High School head football coach and wishes him continued success in his future endeavors.

SECTION 2. That the Secretary of the Senate transmit a copy of this resolution to Kevin Wright and his family and to Tony Burchett, principal of Warren Central High School.

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

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
ESB 260–1; filed March 14, 2006, at 4:11 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 260 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 6-1.1-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 12. **(a) As used in this section, "land developer" means a person that holds land for sale in the ordinary course of the person's trade or business.**

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

(1) a lot; or

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

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

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

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

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

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

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

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

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

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

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

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

(A) the land developer; or

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

to a person that is not a land developer;

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

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

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

SECTION 2. IC 6-1.1-4-28.5, AS AMENDED BY P.L.88-2005, SECTION 7, AND AS AMENDED BY P.L.228-2005, SECTION 10, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28.5. (a) Money assigned to a property reassessment fund under section 27.5 of this chapter may be used only to pay the costs of:

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

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

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

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

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

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

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

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

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

(c) The county treasurer of each county shall, in accordance

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

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

SECTION 3. IC 6-1.1-5.5-5, AS AMENDED BY P.L.228-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. **(a)** The department of local government finance shall prescribe a sales disclosure form for use under this chapter. The form prescribed by the department of local government finance must include at least the following information:

(1) The key number of the parcel (as defined in IC 6-1.1-1-8.5).
(2) Whether the entire parcel is being conveyed.
(3) The address of the property.
(4) The date of the execution of the form.
(5) The date the property was transferred.
(6) Whether the transfer includes an interest in land or improvements, or both.
(7) Whether the transfer includes personal property.
(8) An estimate of any personal property included in the transfer.
(9) The name, address, and telephone number of:
(A) each transferor and transferee; and
(B) the person that prepared the form.
(10) The mailing address to which the property tax bills or other official correspondence should be sent.
(11) The ownership interest transferred.
(12) The classification of the property (as residential, commercial, industrial, agricultural, vacant land, or other).
(13) The total price actually paid or required to be paid in exchange for the conveyance, whether in terms of money, property, a service, an agreement, or other consideration, but excluding tax payments and payments for legal and other services that are incidental to the conveyance.
(14) The terms of seller provided financing, such as interest rate, points, type of loan, amount of loan, and amortization period, and whether the borrower is personally liable for repayment of the loan.
(15) Any family or business relationship existing between the transferor and the transferee.
(16) Other information as required by the department of local government finance to carry out this chapter.

If a form under this section includes the telephone number or the Social Security number of a party, the telephone number or the Social Security number is confidential.

(b) The instructions for completing the form described in subsection (a) must include the information described in IC 6-1.1-12-43(c)(1).

SECTION 4. IC 6-1.1-5.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The county auditor may not accept a conveyance document if:

(1) the sales disclosure form signed by all the parties and attested as required under section 9 of this chapter is not included with the document; or
(2) the sales disclosure form does not contain the information described in ~~section 5~~ **section 5(a)** of this chapter.

(b) The county recorder shall not record a conveyance document without evidence that the parties have filed a completed sales disclosure form with the county auditor.

SECTION 5. IC 6-1.1-8-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) Each year the department of local government finance shall notify each public utility company of:

(1) the department's tentative assessment of the company's distributable property; and
(2) the value of the company's distributable property used by the department to determine the tentative assessment.

(b) The department of local government finance shall give the notice ~~on or before~~ **required by subsection (a) not later than:**

(1) September 1 in the case of railroad car companies; and ~~shall give the notice on or before~~
(2) June 1 in the case of all other public utility companies.

~~(b) Within~~ **(c) Not later than** ten (10) days after a public utility company receives **the** notice ~~of the department of local government finance's tentative assessment,~~ **required by subsection (a),** the company may:

(1) file with the department its objections to the tentative assessment; and
(2) ~~demand~~ **request** that the department hold a ~~hearing~~ **preliminary conference** on the tentative assessment.

(d) If the **public utility** company does not file ~~with the department of local government finance~~ its objections ~~to the tentative assessment~~ **under subsection (c)(1)** within the time allowed:

(1) the tentative assessment is **considered** final; and
(2) the company may ~~not be appealed.~~ **appeal the assessment under section 30 of this chapter.**

SECTION 6. IC 6-1.1-8-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. **(a)** If a public utility company files its objections to ~~and demands a hearing on,~~ a tentative assessment within the time allowed **under section 28(c) of this chapter,** the department of local government finance ~~shall~~ **may** hold a ~~hearing~~ **preliminary conference** on the tentative assessment at a time and place fixed by the department. After the ~~hearing,~~ **preliminary conference,** if any, the department of local government finance shall:

(1) make a final assessment of the company's distributable property; and ~~shall~~
(2) notify the company of the final assessment. ~~However,~~

(b) The department of local government finance must give notice of the final assessment ~~before.~~ **under this section not later than:**

(1) September 30 in the case of railroad car companies; and ~~before~~
(2) June 30 in the case of all other public utility companies.

SECTION 7. IC 6-1.1-8-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. ~~If~~ **(a)** A public utility company ~~files its objections to the department of local government finance's tentative assessment of the company's distributable property in the manner prescribed in section 28 of this chapter, the company~~ may initiate an appeal of the ~~department's~~ final assessment of ~~that~~ **the company's distributable** property by filing a petition with the Indiana board not ~~more~~ **later** than forty-five (45) days after:

(1) the public utility company receives notice of the tentative assessment under section 28(a) of this chapter if the final assessment becomes final under section 28(d) of this chapter; or
(2) the department **of local government finance** gives the public utility **company** notice of the final determination ~~The~~ **under section 29(a) of this chapter.**

(b) A public utility **company** may petition for judicial review of the Indiana board's final determination to the tax court under IC 4-21.5-5. However, the company must:

(1) file a verified petition for judicial review; and
(2) mail to the county auditor of each county in which the public utility company's distributable property is located:
(A) a notice that the complaint was filed; and
(B) instructions for obtaining a copy of the complaint;

~~within~~ **not later than** forty-five (45) days after the date of the notice of the Indiana board's final determination.

SECTION 8. IC 6-1.1-8.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. **(a)** For purposes of the general reassessment under IC 6-1.1-4-4 or a new assessment, the department of local government finance shall assess each industrial facility in a qualifying county.

(b) The following may not assess an industrial facility in a qualifying county:

(1) A county assessor.
(2) An assessing official.
(3) A county property tax assessment board of appeals.

SECTION 9. IC 6-1.1-9-10 IS ADDED TO THE INDIANA

CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: **Sec. 10. (a) If in the course of a review of a taxpayer's personal property assessment under this chapter an assessing official or the assessing official's representative or contractor discovers an error indicating that the taxpayer has overreported a personal property assessment, the assessing official shall:**

(1) adjust the personal property assessment to correct the error; and

(2) process a refund or credit for any resulting overpayment.

(b) Application of subsection (a) is subject to the restrictions of IC 6-1.1-11-1.

SECTION 10. IC 6-1.1-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 3. (a) Subject to subsections (e), ~~and~~ (f), **and (g),** an owner of tangible property who wishes to obtain an exemption from property taxation shall file a certified application in duplicate with the county assessor of the county in which the property that is the subject of the exemption is located. The application must be filed annually ~~on or~~ before May 15 on forms prescribed by the department of local government finance. Except as provided in sections 1, 3.5, and 4 of this chapter, the application applies only for the taxes imposed for the year for which the application is filed.

(b) The authority for signing an exemption application may not be delegated by the owner of the property to any other person except by an executed power of attorney.

(c) An exemption application which is required under this chapter shall contain the following information:

(1) A description of the property claimed to be exempt in sufficient detail to afford identification.

(2) A statement showing the ownership, possession, and use of the property.

(3) The grounds for claiming the exemption.

(4) The full name and address of the applicant.

(5) For the year that ends on the assessment date of the property, identification of:

(A) each part of the property used or occupied; and

(B) each part of the property not used or occupied;

for one (1) or more exempt purposes under IC 6-1.1-10 during the time the property is used or occupied.

(6) Any additional information which the department of local government finance may require.

(d) A person who signs an exemption application shall attest in writing and under penalties of perjury that, to the best of the person's knowledge and belief, a predominant part of the property claimed to be exempt is not being used or occupied in connection with a trade or business that is not substantially related to the exercise or performance of the organization's exempt purpose.

(e) An owner must file with an application for exemption of real property under subsection (a) or section 5 of this chapter a copy of the township assessor's record kept under IC 6-1.1-4-25(a) that shows the calculation of the assessed value of the real property for the assessment date for which the exemption is claimed. Upon receipt of the exemption application, the county assessor shall examine that record and determine if the real property for which the exemption is claimed is properly assessed. If the county assessor determines that the real property is not properly assessed, the county assessor shall direct the township assessor of the township in which the real property is located to:

(1) properly assess the real property; and

(2) notify the county assessor and county auditor of the proper assessment.

(f) If the county assessor determines that the applicant has not filed with an application for exemption a copy of the record referred to in subsection (e), the county assessor shall notify the applicant in writing of that requirement. The applicant then has thirty (30) days after the date of the notice to comply with that requirement. The county property tax assessment board of appeals shall deny an application described in this subsection if the applicant does not comply with that requirement within the time permitted under this subsection.

(g) This subsection applies whenever a law requires an exemption to be claimed on or in an application accompanying a personal property tax return. The claim or application may be filed on or with a personal property tax return not more than thirty (30) days after the filing date for the personal property tax return, regardless of whether an extension of the filing date has been granted under IC 6-1.1-3-7.

SECTION 11. IC 6-1.1-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as provided in section 17.8 of this chapter, a person who desires to claim the deduction provided by section 1 of this chapter must file a statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property, mobile home not assessed as real property, or manufactured home not assessed as real property is located. With respect to real property, the statement must be filed during the twelve (12) months before ~~May~~ **June** 11 of each year for which the person wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March 2 of each year for which the individual wishes to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. In addition to the statement required by this subsection, a contract buyer who desires to claim the deduction must submit a copy of the recorded contract or recorded memorandum of the contract, which must contain a legal description sufficient to meet the requirements of IC 6-1.1-5, with the first statement that the buyer files under this section with respect to a particular parcel of real property. Upon receipt of the statement and the recorded contract or recorded memorandum of the contract, the county auditor shall assign a separate description and identification number to the parcel of real property being sold under the contract.

(b) The statement referred to in subsection (a) must be verified under penalties for perjury, and the statement must contain the following information:

(1) The balance of the person's mortgage or contract indebtedness on the assessment date of the year for which the deduction is claimed.

(2) The assessed value of the real property, mobile home, or manufactured home.

(3) The full name and complete residence address of the person and of the mortgagee or contract seller.

(4) The name and residence of any assignee or bona fide owner or holder of the mortgage or contract, if known, and if not known, the person shall state that fact.

(5) The record number and page where the mortgage, contract, or memorandum of the contract is recorded.

(6) A brief description of the real property, mobile home, or manufactured home which is encumbered by the mortgage or sold under the contract.

(7) If the person is not the sole legal or equitable owner of the real property, mobile home, or manufactured home, the exact share of the person's interest in it.

(8) The name of any other county in which the person has applied for a deduction under this section and the amount of deduction claimed in that application.

(c) The authority for signing a deduction application filed under this section may not be delegated by the real property, mobile home, or manufactured home owner or contract buyer to any person except upon an executed power of attorney. The power of attorney may be contained in the recorded mortgage, contract, or memorandum of the contract, or in a separate instrument.

SECTION 12. IC 6-1.1-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) An individual who satisfies the requirements of section 3 of this chapter may file a claim for a deduction, or deductions, provided by section 1 of this chapter during the twelve (12) months before ~~May~~ **June** 11 of the year following the year in which ~~he~~ **the individual** is discharged from military service. The individual shall file the claim, on the forms prescribed for claiming a deduction under section 2 of this chapter, with the auditor of the county in which the real property is located. The claim shall specify the particular year, or years, for which the deduction is claimed. The individual shall attach to the claim an affidavit which states the facts concerning the individual's

absence as a member of the United States armed forces.

(b) The county property tax assessment board of appeals shall examine the individual's claim and shall determine the amount of deduction, or deductions, ~~he~~ **the individual** is entitled to and the year, or years, for which deductions are due. Based on the board's determination, the county auditor shall calculate the excess taxes paid by the individual and shall refund the excess to the individual from funds not otherwise appropriated. The county auditor shall issue, and the county treasurer shall pay, a warrant for the amount, if any, to which the individual is entitled.

SECTION 13. IC 6-1.1-12-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.1. (a) Except as provided in section 17.8 of this chapter, an individual who desires to claim the deduction provided by section 9 of this chapter must file a sworn statement, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property, mobile home, or manufactured home is located. With respect to real property, the statement must be filed during the twelve (12) months before ~~May~~ **June** 11 of each year for which the individual wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed between January 15 and March 31, inclusive of each year for which the individual wishes to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing.

(b) The statement referred to in subsection (a) shall be in affidavit form or require verification under penalties of perjury. The statement must be filed in duplicate if the applicant owns, or is buying under a contract, real property, a mobile home, or a manufactured home subject to assessment in more than one (1) county or in more than one (1) taxing district in the same county. The statement shall contain:

(1) the source and exact amount of gross income received by the individual and ~~his~~ **the individual's** spouse during the preceding calendar year;

(2) the description and assessed value of the real property, mobile home, or manufactured home;

(3) the individual's full name and ~~his~~ complete residence address;

(4) the record number and page where the contract or memorandum of the contract is recorded if the individual is buying the real property, mobile home, or manufactured home on contract; and

(5) any additional information which the department of local government finance may require.

(c) In order to substantiate ~~his~~ **the** deduction statement, the applicant shall submit for inspection by the county auditor a copy of ~~his~~ **the applicant's** and a copy of ~~his~~ **the applicant's** spouse's income tax returns for the preceding calendar year. If either was not required to file an income tax return, the applicant shall subscribe to that fact in the deduction statement.

SECTION 14. IC 6-1.1-12-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. (a) Except as provided in section 17.8 of this chapter, a person who desires to claim the deduction provided in section 11 of this chapter must file an application, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property, mobile home not assessed as real property, or manufactured home not assessed as real property is located. With respect to real property, the application must be filed during the twelve (12) months before ~~May~~ **June** 11 of each year for which the individual wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the application must be filed during the twelve (12) months before March 2 of each year for which the individual wishes to obtain the deduction. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing.

(b) Proof of blindness may be supported by:

(1) the records of a county office of family and children, the division of family ~~and children,~~ **resources,** or the division of disability, aging, and rehabilitative services; or

(2) the written statement of a physician who is licensed by this state and skilled in the diseases of the eye or of a licensed optometrist.

(c) The application required by this section must contain the record number and page where the contract or memorandum of the contract is recorded if the individual is buying the real property, mobile home, or manufactured home on a contract that provides that ~~he~~ **the individual** is to pay property taxes on the real property, mobile home, or manufactured home.

SECTION 15. IC 6-1.1-12-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) Except as provided in section 17.8 of this chapter, an individual who desires to claim the deduction provided by section 13 or section 14 of this chapter must file a statement with the auditor of the county in which the individual resides. With respect to real property, the statement must be filed during the twelve (12) months before ~~May~~ **June** 11 of each year for which the individual wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March 2 of each year for which the individual wishes to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The statement shall contain a sworn declaration that the individual is entitled to the deduction.

(b) In addition to the statement, the individual shall submit to the county auditor for the auditor's inspection:

(1) a pension certificate, an award of compensation, or a disability compensation check issued by the United States Department of Veterans Affairs if the individual claims the deduction provided by section 13 of this chapter;

(2) a pension certificate or an award of compensation issued by the United States Department of Veterans Affairs if the individual claims the deduction provided by section 14 of this chapter; or

(3) the appropriate certificate of eligibility issued to the individual by the Indiana department of veterans' affairs if the individual claims the deduction provided by section 13 or 14 of this chapter.

(c) If the individual claiming the deduction is under guardianship, the guardian shall file the statement required by this section.

(d) If the individual claiming a deduction under section 13 or 14 of this chapter is buying real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property under a contract that provides that the individual is to pay property taxes for the real estate, mobile home, or manufactured home, the statement required by this section must contain the record number and page where the contract or memorandum of the contract is recorded.

SECTION 16. IC 6-1.1-12-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. Except as provided in section 17.8 of this chapter, a surviving spouse who desires to claim the deduction provided by section 16 of this chapter must file a statement with the auditor of the county in which the surviving spouse resides. With respect to real property, the statement must be filed during the twelve (12) months before ~~May~~ **June** 11 of each year for which the surviving spouse wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March 2 of each year for which the individual wishes to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The statement shall contain:

(1) a sworn statement that the surviving spouse is entitled to the deduction; and

(2) the record number and page where the contract or memorandum of the contract is recorded, if the individual is buying the real property on a contract that provides that the individual is to pay property taxes on the real property.

In addition to the statement, the surviving spouse shall submit to the county auditor for the auditor's inspection a letter or certificate from the United States Department of Veterans Affairs establishing the service of the deceased spouse in the military or naval forces of the United States before November 12, 1918.

SECTION 17. IC 6-1.1-12-17.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.5. (a) Except as provided in section 17.8 of this chapter, a veteran who desires to claim the deduction provided in section 17.4 of this chapter must file a sworn statement, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property, mobile home, or manufactured home is assessed. With respect to real property, the veteran must file the statement during the twelve (12) months before ~~May~~ **June** 11 of each year for which the veteran wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March 2 of each year for which the individual wishes to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing.

(b) The statement required under this section shall be in affidavit form or require verification under penalties of perjury. The statement shall be filed in duplicate if the veteran has, or is buying under a contract, real property in more than one (1) county or in more than one (1) taxing district in the same county. The statement shall contain:

(1) a description and the assessed value of the real property, mobile home, or manufactured home;

(2) the veteran's full name and complete residence address;

(3) the record number and page where the contract or memorandum of the contract is recorded, if the individual is buying the real property, mobile home, or manufactured home on a contract that provides that the individual is to pay property taxes on the real property, mobile home, or manufactured home; and

(4) any additional information which the department of local government finance may require.

SECTION 18. IC 6-1.1-12-17.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.8. (a) An individual who receives a deduction provided under section 1, 9, 11, 13, 14, 16, or 17.4 of this chapter in a particular year and who remains eligible for the deduction in the following year is not required to file a statement to apply for the deduction in the following year.

(b) An individual who receives a deduction provided under section 1, 9, 11, 13, 14, 16, or 17.4 of this chapter in a particular year and who becomes ineligible for the deduction in the following year shall notify the auditor of the county in which the real property, mobile home, or manufactured home for which ~~he~~ **the individual** claims the deduction is located of ~~his~~ **the individual's** ineligibility before ~~May 10~~ **June 11** of the year in which ~~he~~ **the individual** becomes ineligible.

(c) The auditor of each county shall, in a particular year, apply a deduction provided under section 1, 9, 11, 13, 14, 16, or 17.4 of this chapter to each individual who received the deduction in the preceding year unless the auditor determines that the individual is no longer eligible for the deduction.

(d) An individual who receives a deduction provided under section 1, 9, 11, 13, 14, 16, or 17.4 of this chapter for property that is jointly held with another owner in a particular year and remains eligible for the deduction in the following year is not required to file a statement to reapply for the deduction following the removal of the joint owner if:

(1) the individual is the sole owner of the property following the death of the individual's spouse;

(2) the individual is the sole owner of the property following the death of a joint owner who was not the individual's spouse; or

(3) the individual is awarded sole ownership of the property in a divorce decree.

SECTION 19. IC 6-1.1-12-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 20. (a) A property owner who desires to obtain the deduction provided by section 18 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 rehabilitated property is located. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. Except as provided in subsection (b), the application must be filed before ~~May 10~~ **June 11** of the year in which the addition to assessed value is made.

(b) If notice of the addition to assessed value for any year is not given to the property owner before ~~April 10~~ **May 11** of that year, the application required by this section may be filed not later than thirty (30) days after the date such a notice is mailed to the property owner at the address shown on the records of the township assessor.

(c) The application required by this section shall contain the following information:

(1) a description of the property for which a deduction is claimed in sufficient detail to afford identification;

(2) statements of the ownership of the property;

(3) the assessed value of the improvements on the property before rehabilitation;

(4) the number of dwelling units on the property;

(5) the number of dwelling units rehabilitated;

(6) the increase in assessed value resulting from the rehabilitation; and

(7) the amount of deduction claimed.

(d) A deduction application filed under this section is applicable for the year in which the increase in assessed value occurs and for the immediately following four (4) years without any additional application being filed.

(e) On verification of an application by the assessor of the township in which the property is located, the county auditor shall make the deduction.

SECTION 20. IC 6-1.1-12-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 24. (a) A property owner who desires to obtain the deduction provided by section 22 of this chapter must file a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the property is located. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. Except as provided in subsection (b), the application must be filed before ~~May 10~~ **June 11** of the year in which the addition to assessed valuation is made.

(b) If notice of the addition to assessed valuation for any year is not given to the property owner before ~~April 10~~ **May 11** of that year, the application required by this section may be filed not later than thirty (30) days after the date such a notice is mailed to the property owner at the address shown on the records of the township assessor.

(c) The application required by this section shall contain the following information:

(1) the name of the property owner;

(2) a description of the property for which a deduction is claimed in sufficient detail to afford identification;

(3) the assessed value of the improvements on the property before rehabilitation;

(4) the increase in the assessed value of improvements resulting from the rehabilitation; and

(5) the amount of deduction claimed.

(d) A deduction application filed under this section is applicable for the year in which the addition to assessed value is made and in the immediate following four (4) years without any additional application being filed.

(e) On verification of the correctness of an application by the assessor of the township in which the property is located, the county auditor shall make the deduction.

SECTION 21. IC 6-1.1-12-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 30. Except as provided in section 36 of this chapter, a person who desires to claim the deduction provided by section 29 of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property or mobile home is subject to assessment. With respect to real property, the person must file the statement between March 1 and ~~May 10~~ **June 11,** inclusive, of each year for which the person desires to obtain the deduction. With respect to a mobile home which is not assessed as real property, the person must file the statement between January 15 and March 31, inclusive, of each year for which the person desires to obtain the deduction. On verification of the statement by the assessor of the township in which the real property or mobile home is subject to

assessment, the county auditor shall allow the deduction.

SECTION 22. IC 6-1.1-12-35.5, AS AMENDED BY P.L.214-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 35.5. (a) Except as provided in section 36 of this chapter, a person who desires to claim the deduction provided by section 31, 33, 34, or 34.5 of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, and proof of certification under subsection (b) or (f) with the auditor of the county in which the property for which the deduction is claimed is subject to assessment. Except as provided in subsection (e), with respect to property that is not assessed under IC 6-1.1-7, the person must file the statement between March 1 and ~~May 10~~ **June 11,** inclusive, of the assessment year. The person must file the statement in each year for which the person desires to obtain the deduction. With respect to a property which is assessed under IC 6-1.1-7, the person must file the statement between January 15 and March 31, inclusive, of each year for which the person desires to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. On verification of the statement by the assessor of the township in which the property for which the deduction is claimed is subject to assessment, the county auditor shall allow the deduction.

(b) This subsection does not apply to an application for a deduction under section 34.5 of this chapter. The department of environmental management, upon application by a property owner, shall determine whether a system or device qualifies for a deduction provided by section 31, 33, or 34 of this chapter. If the department determines that a system or device qualifies for a deduction, it shall certify the system or device and provide proof of the certification to the property owner. The department shall prescribe the form and manner of the certification process required by this subsection.

(c) This subsection does not apply to an application for a deduction under section 34.5 of this chapter. If the department of environmental management receives an application for certification before ~~April 10~~ **May 11** of the assessment year, the department shall determine whether the system or device qualifies for a deduction before ~~May 10~~ **June 11** of the assessment year. If the department fails to make a determination under this subsection before ~~May 10~~ **June 11** of the assessment year, the system or device is considered certified.

(d) A denial of a deduction claimed under section 31, 33, 34, or 34.5 of this chapter may be appealed as provided in IC 6-1.1-15. The appeal is limited to a review of a determination made by the township assessor, county property tax assessment board of appeals, or department of local government finance.

(e) A person who timely files a personal property return under IC 6-1.1-3-7(a) for an assessment year and who desires to claim the deduction provided in section 31 of this chapter for property that is not assessed under IC 6-1.1-7 must file the statement described in subsection (a) between March 1 and ~~May 15~~ **June 11,** inclusive, of that year. A person who obtains a filing extension under IC 6-1.1-3-7(b) for an assessment year must file the application between March 1 and the extended due date for that year.

(f) This subsection applies only to an application for a deduction under section 34.5 of this chapter. The center for coal technology research established by IC 4-4-30-5, upon receiving an application from the owner of a building, shall determine whether the building qualifies for a deduction under section 34.5 of this chapter. If the center determines that a building qualifies for a deduction, the center shall certify the building and provide proof of the certification to the owner of the building. The center shall prescribe the form and procedure for certification of buildings under this subsection. If the center receives an application for certification of a building under section 34.5 of this chapter before ~~April 10~~ **May 11** of an assessment year:

(1) the center shall determine whether the building qualifies for a deduction before ~~May 10~~ **June 11** of the assessment year; and

(2) if the center fails to make a determination before ~~May 10~~ **June 11** of the assessment year, the building is considered certified.

SECTION 23. IC 6-1.1-12-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 38. (a) A person is entitled to a deduction from the assessed value of the person's property in an amount equal to the difference between:

(1) the assessed value of the person's property, including the assessed value of the improvements made to comply with the fertilizer storage rules adopted by the state chemist under IC 15-3-3-12 and the pesticide storage rules adopted by the state chemist under IC 15-3-3.5-11; minus

(2) the assessed value of the person's property, excluding the assessed value of the improvements made to comply with the fertilizer storage rules adopted by the state chemist under IC 15-3-3-12 and the pesticide storage rules adopted by the state chemist under IC 15-3-3.5-11.

(b) To obtain the deduction under this section, a person must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the property is subject to assessment. In addition to the certified statement, the person must file a certification by the state chemist listing the improvements that were made to comply with the fertilizer storage rules adopted under IC 15-3-3-12 and the pesticide storage rules adopted by the state chemist under IC 15-3-3.5-11. The statement and certification must be filed before ~~May 10~~ **June 11** of the year preceding the year the deduction will first be applied. Upon the verification of the statement and certification by the assessor of the township in which the property is subject to assessment, the county auditor shall allow the deduction.

SECTION 24. IC 6-1.1-12.1-1, AS AMENDED BY P.L.216-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 1. For purposes of this chapter:

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

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

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

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

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

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

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

(C) ~~was acquired by its owner~~ **acquires in an arms length transaction from an entity that is not an affiliate of the deduction applicant** for use as described in clause (B); and

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

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

(4) "Property" means a building or structure, but does not include land.
(5) "Redevelopment" means the construction of new structures, in economic revitalization areas, either:
(A) on unimproved real estate; or
(B) on real estate upon which a prior existing structure is demolished to allow for a new construction.
(6) "Rehabilitation" means the remodeling, repair, or betterment of property in any manner or any enlargement or extension of property.
(7) "Designating body" means the following:
(A) For a county that does not contain a consolidated city, the fiscal body of the county, city, or town.
(B) For a county containing a consolidated city, the metropolitan development commission.
(8) "Deduction application" means: ~~either:~~
(A) the application filed in accordance with section 5 of this chapter by a property owner who desires to obtain the deduction provided by section 3 of this chapter; ~~or~~
(B) the application filed in accordance with section 5.4 of this chapter by a person who desires to obtain the deduction provided by section 4.5 of this chapter; **or**
(C) the application filed in accordance with section 5.3 of this chapter by a property owner that desires to obtain the deduction provided by section 4.8 of this chapter.
(9) "Designation application" means an application that is filed with a designating body to assist that body in making a determination about whether a particular area should be designated as an economic revitalization area.
(10) "Hazardous waste" has the meaning set forth in IC 13-11-2-99(a). The term includes waste determined to be a hazardous waste under IC 13-22-2-3(b).
(11) "Solid waste" has the meaning set forth in IC 13-11-2-205(a). However, the term does not include dead animals or any animal solid or semisolid wastes.
(12) "New research and development equipment" means tangible personal property that:
(A) ~~is installed~~ **a deduction applicant installs** after June 30, 2000, and on or before the approval deadline determined under section 9 of this chapter, in an economic revitalization area in which a deduction for tangible personal property is allowed;
(B) consists of:
(i) laboratory equipment;
(ii) research and development equipment;
(iii) computers and computer software;
(iv) telecommunications equipment; or
(v) testing equipment;
(C) ~~is used~~ **the deduction applicant uses** in research and development activities devoted directly and exclusively to experimental or laboratory research and development for new products, new uses of existing products, or improving or testing existing products; ~~and~~
(D) ~~is acquired by the property owner~~ **the deduction applicant acquires in an arms length transaction from an entity that is not an affiliate of the deduction applicant** for purposes described in this subdivision; and ~~was~~
(E) the deduction applicant never ~~before~~ used ~~by the owner~~ for any purpose in Indiana **before the installation described in clause (A).**
The term does not include equipment installed in facilities used for or in connection with efficiency surveys, management studies, consumer surveys, economic surveys, advertising or promotion, or research in connection with literacy, history, or similar projects.
(13) "New logistical distribution equipment" means tangible personal property that:
(A) ~~is installed~~ **a deduction applicant installs** after June 30, 2004, and on or before the approval deadline determined under section 9 of this chapter, in an economic revitalization area in which a deduction for tangible personal property is allowed;
(B) consists of:
(i) racking equipment;
(ii) scanning or coding equipment;
(iii) separators;
(iv) conveyors;
(v) fork lifts or lifting equipment (including "walk behinds");
(vi) transitional moving equipment;
(vii) packaging equipment;
(viii) sorting and picking equipment; or
(ix) software for technology used in logistical distribution;
(C) ~~is used~~ **the deduction applicant acquires in an arms length transaction from an entity that is not an affiliate of the deduction applicant and uses** for the storage or distribution of goods, services, or information; and
(D) ~~before being used as described in clause (C), was~~ **the deduction applicant** never used ~~by its owner~~ for any purpose in Indiana **before the installation described in clause (A).**
(14) "New information technology equipment" means tangible personal property that:
(A) ~~is installed~~ **a deduction applicant installs** after June 30, 2004, and on or before the approval deadline determined under section 9 of this chapter, in an economic revitalization area in which a deduction for tangible personal property is allowed;
(B) consists of equipment, including software, used in the fields of:
(i) information processing;
(ii) office automation;
(iii) telecommunication facilities and networks;
(iv) informatics;
(v) network administration;
(vi) software development; and
(vii) fiber optics; ~~and~~
(C) the deduction applicant acquires in an arms length transaction from an entity that is not an affiliate of the deduction applicant; and
~~(C) before being installed as described in clause (A), was~~ **(D) the deduction applicant** never used ~~by its owner~~ for any purpose in Indiana **before the installation described in clause (A).**
(15) "Deduction applicant" means an owner of tangible personal property who makes a deduction application.
(16) "Affiliate" means an entity that effectively controls or is controlled by a deduction applicant or is associated with a deduction applicant under common ownership or control, whether by shareholdings or other means.
(17) "Eligible vacant building" means a building that:
(A) is zoned for commercial or industrial purposes; and
(B) is unoccupied for at least one (1) year before the owner of the building or a tenant of the owner occupies the building, as evidenced by a valid certificate of occupancy, paid utility receipts, executed lease agreements, or any other evidence of occupation that the department of local government finance requires.

SECTION 25. IC 6-1.1-12.1-2, AS AMENDED BY P.L.216-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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~~ **section** 3, ~~and~~ 4.5, **or 4.8** 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)~~ **four (4)** 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.

(4) One (1) relative to the deduction allowed under section 4.8 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 economic revitalization 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, **the deduction allowed under section 4.8 of this chapter, or any combination of these deductions;**

(3) limit the dollar amount of the deduction that will be allowed with respect to new manufacturing equipment, 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;

(5) limit the dollar amount of the deduction that will be allowed under section 4.8 of this chapter with respect to the occupation of an eligible vacant building; or

~~(5)~~ **(6)** 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, new research and development equipment, 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, new research and development equipment, new logistical distribution equipment, or new information technology equipment installed on or before the approval deadline determined under section 9 of this chapter, 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, new research and development equipment, 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, **or 4.8** 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 26. IC 6-1.1-12.1-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) If a designating body finds that an area in its jurisdiction is an economic revitalization area, it shall either:

(1) prepare maps and plats that identify the area; or

(2) prepare a simplified description of the boundaries of the area by describing its location in relation to public ways, streams, or otherwise.

(b) After the compilation of the materials described in subsection (a), the designating body shall pass a resolution declaring the area an economic revitalization area. The resolution must contain a description of the affected area and be filed with the county assessor. A resolution adopted after June 30, 2000, may include a determination of the number of years a deduction under section 3, **4.5, or 4.8** of this chapter is allowed. ~~In addition, if the resolution is adopted after June 30, 2000, the resolution may include a determination of the number of years a deduction under section 4.5 of this chapter is allowed.~~

(c) After approval of a resolution under subsection (b), the designating body shall do the following:

(1) Publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1.

(2) File the following information with each taxing unit that has authority to levy property taxes in the geographic area where the economic revitalization area is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement containing substantially the same information as a statement of benefits filed with the designating body before the hearing required by this section under ~~sections~~ **section** 3, ~~and~~ 4.5, **or 4.8** of this chapter.

The notice must state that a description of the affected area is available and can be inspected in the county assessor's office. The notice must also name a date when the designating body will receive and hear all remonstrances and objections from interested persons. The designating body shall file the information required by subdivision (2) with the officers of the taxing unit who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days before the date of the public hearing. After considering the evidence, the designating body shall take final action determining whether the qualifications for an economic revitalization area have been met and confirming, modifying and confirming, or rescinding the resolution. This determination is final except that an appeal may be taken and heard as provided under subsections (d) and (e).

(d) A person who filed a written remonstrance with the designating body under this section and who is aggrieved by the final action taken may, within ten (10) days after that final action, initiate an appeal of that action by filing in the office of the clerk of the circuit or superior court a copy of the order of the designating body and ~~his~~ **the person's** remonstrance against that order, together with ~~his~~ **the person's** bond conditioned to pay the costs of ~~his~~ **the person's** appeal if the appeal is determined against ~~him.~~ **the person.** The only ground of appeal that the court may hear is whether the proposed project will meet the qualifications of the economic revitalization area law. The burden of proof is on the appellant.

(e) An appeal under this section shall be promptly heard by the court without a jury. All remonstrances upon which an appeal has been taken shall be consolidated and heard and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the appeal, and may confirm the final action of the designating body or sustain the appeal. The judgment of the court is final and conclusive, unless an appeal is taken as in other civil actions.

SECTION 27. IC 6-1.1-12.1-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: 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, new research and development equipment, 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, new research and development equipment, 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, new research and development equipment, 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, new research and development equipment, 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, new research and development equipment, 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, new research and development equipment, 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, new research and development equipment, 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, new research and development equipment, 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), **and subject to subsection (i),** an owner of new manufacturing equipment, new research and development equipment, 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, **and subject to subsection (i),** 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, new research and development equipment, 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.

(i) For purposes of subsection (d), the assessed value of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment that is part of an owner's assessable depreciable personal property in a single taxing district subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 is the product of:

(1) the assessed value of the equipment determined without regard to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9; multiplied by

(2) the quotient of:

(A) the amount of the valuation limitation determined under 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 for all of the owner's depreciable personal property in the taxing district; divided by

(B) the total true tax value of all of the owner's depreciable personal property in the taxing district that is subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 determined:

(i) under the depreciation schedules in the rules of the department of local government finance before any adjustment for abnormal obsolescence; and

(ii) without regard to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9.

SECTION 28. IC 6-1.1-12.1-4.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.8. (a) A property owner that is an applicant for a deduction under this section must provide a statement of benefits to the designating body.**

(b) If the designating body requires information from the property owner for the designating body's use in deciding whether to designate an economic revitalization area, the property owner must provide the completed statement of benefits form to the designating body before the hearing required by section 2.5(c) of this chapter. Otherwise, the property owner must submit the completed statement of benefits form to the designating body before the occupation of the eligible vacant building for which the property owner desires to claim a deduction.

(c) 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 eligible vacant building that the property owner or a tenant of the property owner will occupy.

(2) An estimate of the number of individuals who will be employed or whose employment will be retained by the property owner or the tenant as a result of the occupation of the eligible vacant building, and an estimate of the annual salaries of those individuals.

(3) Information regarding efforts by the owner or a previous owner to sell, lease, or rent the eligible vacant building during the period the eligible vacant building was unoccupied.

(4) Information regarding the amount for which the eligible vacant building was offered for sale, lease, or rent by the owner or a previous owner during the period the eligible vacant building was unoccupied.

(d) With the approval of the designating body, the statement of benefits may be incorporated in a designation application. A statement of benefits is a public record that may be inspected and copied under IC 5-14-3.

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

(1) Whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed occupation of the eligible vacant building.

(2) 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 occupation of the eligible vacant building.

(3) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed occupation of the eligible vacant building.

(4) Whether the occupation of the eligible vacant building will increase the tax base and assist in the rehabilitation of the economic revitalization area.

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

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

(f) Except as otherwise provided in this section, the owner of an eligible vacant building located in an economic revitalization area is entitled to a deduction from the assessed value of the building if the property owner or a tenant of the property owner occupies the eligible vacant building and uses it for commercial or industrial purposes. The property owner is entitled to the deduction:

(1) for the first year in which the property owner or a tenant of the property owner occupies the eligible vacant building and uses it for commercial or industrial purposes; and

(2) for subsequent years determined under subsection (g).

(g) The designating body shall determine the number of years for which a property owner is entitled to a deduction under this section. However, the deduction may not be allowed for more than two (2) years. This determination shall be made:

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

(2) by a resolution adopted not more than sixty (60) days after the designating body receives a copy of the property owner's deduction application from the county auditor.

A certified copy of a resolution under subdivision (2) shall be sent to the county auditor, who shall make the deduction as provided in section 5.3 of this chapter. A determination concerning the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by using the procedure under subdivision (2).

(h) Except as provided in section 2(i)(5) of this chapter and subsection (k), the amount of the deduction the property owner is entitled to receive under this section for a particular year equals the product of:

(1) the assessed value of the building or part of the building that is occupied by the property owner or a tenant of the property owner; multiplied by

(2) the percentage set forth in the table in subsection (i).

(i) The percentage to be used in calculating the deduction under subsection (h) is as follows:

(1) For deductions allowed over a one (1) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%

(2) For deductions allowed over a two (2) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	50%

(j) The amount of the deduction determined under subsection (h) shall be adjusted in accordance with this subsection in the

following circumstances:

(1) If a general reassessment of real property occurs within the period of the deduction, the amount of the assessed value determined under subsection (h)(1) shall be adjusted to reflect the percentage increase or decrease in assessed valuation that resulted from the general reassessment.

(2) If an appeal of an assessment is approved and results in a reduction of the assessed value of the property, the amount of a deduction under this section shall be adjusted to reflect the percentage decrease that resulted from the appeal.

(k) The maximum amount of a deduction under this section may not exceed the lesser of:

(1) the annual amount for which the eligible vacant building was offered for lease or rent by the owner or a previous owner during the period the eligible vacant building was unoccupied; or

(2) an amount, as determined by the designating body in its discretion, that is equal to the annual amount for which similar buildings in the county or contiguous counties were leased or rented or offered for lease or rent during the period the eligible vacant building was unoccupied.

(l) The department of local government finance may adopt rules under IC 4-22-2 to implement this section.

SECTION 29. IC 6-1.1-12.1-5.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.3. (a) A property owner that desires to obtain the deduction provided by section 4.8 of this chapter must file a deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the eligible vacant building is located. Except as otherwise provided in this section, the deduction application must be filed before May 10 of the year in which the property owner or a tenant of the property owner initially occupies the eligible vacant building.**

(b) If notice of the assessed valuation or new assessment for a year is not given to the property owner before April 10 of that year, the deduction application required by this section may be filed not later than thirty (30) days after the date the notice is mailed to the property owner at the address shown on the records of the township assessor.

(c) The deduction application required by this section must contain the following information:

(1) The name of the property owner and, if applicable, the property owner's tenant.

(2) A description of the property for which a deduction is claimed.

(3) The amount of the deduction claimed for the first year of the deduction.

(4) Any other information required by the department of local government finance or the designating body.

(d) A deduction application filed under this section applies to the year in which the property owner or a tenant of the property owner occupies the eligible vacant building and in the following year if the deduction is allowed for a two (2) year period, without an additional deduction application being filed.

(e) A property owner that desires to obtain the deduction provided by section 4.8 of this chapter but that did not file a deduction application within the dates prescribed in subsection (a) or (b) may file a deduction application between March 1 and May 10 of a subsequent year. A deduction application filed under this subsection applies to the year in which the deduction application is filed and the following year if the deduction is allowed for a two (2) year period, without an additional deduction application being filed. The amount of the deduction under this subsection is the amount that would have been applicable to the year under section 4.8 of this chapter if the deduction application had been filed in accordance with subsection (a) or (b).

(f) Subject to subsection (i), the county auditor shall do the following:

(1) If a determination concerning the number of years the deduction is allowed has been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall make the appropriate deduction.

(2) If a determination concerning the number of years the deduction is allowed has not been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall send a copy of the deduction application to the designating body. Upon receipt of the resolution stating the number of years the deduction will be allowed, the county auditor shall make the appropriate deduction.

(g) The amount and period of the deduction provided by section 4.8 of this chapter are not affected by a change in the ownership of the eligible vacant building or a change in the property owner's tenant, if the new property owner or the new tenant:

(1) continues to occupy the eligible vacant building in compliance with any standards established under section 2(g) of this chapter; and

(2) files an application in the manner provided by subsection (e).

(h) Before the county auditor acts under subsection (f), the county auditor may request that the township assessor of the township in which the eligible vacant building is located review the deduction application.

(i) A property owner may appeal a determination of the county auditor under subsection (f) by requesting in writing a preliminary conference with the county auditor not more than forty-five (45) days after the county auditor gives the property owner notice of the determination. An appeal under this subsection shall be processed and determined in the same manner that an appeal is processed and determined under IC 6-1.1-15.

(j) In addition to the requirements of subsection (c), a property owner that files a deduction application under this section 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 4.8 of this chapter. This information must be included in the deduction application and must also be updated each year in which the deduction is applicable:

(1) at the same time that the property owner or the property owner's tenant files a personal property tax return for property located at the eligible vacant building for which the deduction was granted; or

(2) if subdivision (1) does not apply, before May 15 of each year.

(k) The following information is a public record if filed under this section:

(1) The name and address of the property owner.

(2) The location and description of the eligible vacant building for which the deduction was granted.

(3) Any information concerning the number of employees at the eligible vacant building for which the deduction was granted, including estimated totals that were provided as part of the statement of benefits.

(4) Any information concerning the total of the salaries paid to the employees described in subdivision (3), including estimated totals that are provided as part of the statement of benefits.

(5) Any information concerning the assessed value of the eligible vacant building, including estimates that are provided as part of the statement of benefits.

(l) Information concerning the specific salaries paid to individual employees by the property owner or tenant is confidential.

SECTION 30. IC 6-1.1-12.1-5.9, AS AMENDED BY P.L.193-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.9. (a) This section does not apply to:

(1) a deduction under section 3 of this chapter for property located in a residentially distressed area; or

(2) any other deduction under section 3 or 4.5 of this chapter for which a statement of benefits was approved before July 1, 1991.

(b) Not later than forty-five (45) days after receipt of the information described in section 5.1, **5.3(j),** or 5.6 of this chapter, the designating body may determine whether the property owner has substantially complied with the statement of benefits approved under

section 3, ~~or~~ 4.5, **or 4.8** of this chapter. If the designating body determines that the property owner has not substantially complied with the statement of benefits and that the failure to substantially comply was not caused by factors beyond the control of the property owner (such as declines in demand for the property owner's products or services), the designating body shall mail a written notice to the property owner. The written notice must include the following provisions:

(1) An explanation of the reasons for the designating body's determination.

(2) The date, time, and place of a hearing to be conducted by the designating body for the purpose of further considering the property owner's compliance with the statement of benefits. The date of the hearing may not be more than thirty (30) days after the date on which the notice is mailed.

(c) On the date specified in the notice described in subsection (b)(2), the designating body shall conduct a hearing for the purpose of further considering the property owner's compliance with the statement of benefits. Based on the information presented at the hearing by the property owner and other interested parties, the designating body shall again determine whether the property owner has made reasonable efforts to substantially comply with the statement of benefits and whether any failure to substantially comply was caused by factors beyond the control of the property owner. If the designating body determines that the property owner has not made reasonable efforts to comply with the statement of benefits, the designating body shall adopt a resolution terminating the property owner's deduction under section 3, ~~or~~ 4.5, **or 4.8** of this chapter. If the designating body adopts such a resolution, the deduction does not apply to the next installment of property taxes owed by the property owner or to any subsequent installment of property taxes.

(d) If the designating body adopts a resolution terminating a deduction under subsection (c), the designating body shall immediately mail a certified copy of the resolution to:

(1) the property owner;

(2) the county auditor; and

(3) if the deduction applied under section 4.5 of this chapter, the township assessor.

The county auditor shall remove the deduction from the tax duplicate and shall notify the county treasurer of the termination of the deduction. If the designating body's resolution is adopted after the county treasurer has mailed the statement required by IC 6-1.1-22-8, the county treasurer shall immediately mail the property owner a revised statement that reflects the termination of the deduction.

(e) A property owner whose deduction is terminated by the designating body under this section may appeal the designating body's decision by filing a complaint in the office of the clerk of the circuit or superior court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner. An appeal under this subsection shall be promptly heard by the court without a jury and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the appeal and may confirm the action of the designating body or sustain the appeal. The judgment of the court is final and conclusive unless an appeal is taken as in other civil actions.

(f) If an appeal under subsection (e) is pending, the taxes resulting from the termination of the deduction are not due until after the appeal is finally adjudicated and the termination of the deduction is finally determined.

SECTION 31. IC 6-1.1-12.1-8, AS AMENDED BY P.L.193-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 deduction applications that were filed under this chapter during that year that resulted in deductions being applied under this chapter for that year. The list must contain the following:

(A) The name and address of each person approved for or receiving a deduction that was filed for during the year.

(B) The amount of each deduction that was filed for during the year.

(C) The number of years for which each deduction that was filed for during the year will be available.

(D) The total amount for all deductions that were filed for and applied during the year.

(2) The total amount of all deductions for real property that were in effect under section 3 of this chapter during the year.

(3) The total amount of all deductions for new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment that were in effect under section 4.5 of this chapter during the year.

(4) The total amount of all deductions for eligible vacant buildings that were in effect under section 4.8 of this chapter during the year.

(b) The county auditor shall file the information described in subsection (a)(2), ~~and~~ (a)(3), **and (a)(4)** with the department of local government finance not later than December 31 of each year.

SECTION 32. IC 6-1.1-12.1-9, AS AMENDED BY P.L.216-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. Notwithstanding any other provision of this chapter, a designating body may not approve a statement of benefits for a deduction under section 3, ~~or~~ 4.5, **or 4.8** of this chapter after the approval deadline, which is determined in the following manner:

(1) The initial approval deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial approval deadline and subsequent approval deadlines are automatically extended in increments of five (5) years, so that approval deadlines subsequent to the initial approval deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an approval deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of approval deadlines under subdivision (2); and

(B) specifically designates a particular date as the final approval deadline.

SECTION 33. IC 6-1.1-12.1-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: **Sec. 9.5. (a) As used in this section, "clerical error" includes mathematical errors and omitted signatures.**

(b) Except as provided in section 9 of this chapter, the designating body may by resolution waive noncompliance with the following requirements in this chapter with respect to a particular deduction under this chapter:

(1) a filing deadline applicable to an application, a statement of benefits, or another document that is required to be filed under this chapter; or

(2) a clerical error in an application, a statement of benefits, or another document that is required to be filed under this chapter;

if the taxpayer otherwise qualifies for the deduction and the document is filed or the clerical error is corrected before the resolution is adopted. The resolution must specifically identify the property, deductions, and taxpayer that are effected by the resolution, specifically identify the noncompliance that is the subject of the resolution, and include a finding that the noncompliance has been corrected before the adoption of the resolution.

(c) The designating body shall certify a copy of a resolution adopted under this section to the taxpayer and the department of local government finance.

(d) If a noncompliance with this chapter has been corrected and a resolution is adopted under this section, the taxpayer shall be treated as if the taxpayer had complied with the procedural requirements of this chapter. However, if the designating body determines that granting the relief permitted by this section would result in a delay in the issuance of tax bills, require the recalculation of tax rates or tax levies for a particular year, or otherwise cause an undue burden on a taxing unit, the designating body may require that the deduction that the taxpayer would be entitled to receive for a particular year be

applied to a subsequent year in the manner prescribed by the department of local government finance.

SECTION 34. IC 6-1.1-12.1-11.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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:

(A) initiation of the redevelopment or rehabilitation; ~~or the~~

(B) installation of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment; **or**

(C) occupation of an eligible vacant building;

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, new research and development equipment, new logistical distribution equipment, or new information technology equipment; ~~or~~

(C) rehabilitation; **or**

(D) occupation of an eligible vacant building;

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, new research and development equipment, new logistical distribution equipment, or new information technology equipment under section 2, 3, ~~or~~ 4.5, **or 4.8** of this chapter.

(5) Failure to file a:

(A) timely; or

(B) complete;

deduction application under section 5, **5.3,** 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 35. IC 6-1.1-12.1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) A property owner that has received a deduction under section 3, or 4.5 of this chapter is subject to the provisions of this section if the designating body adopts a resolution incorporating the provisions of this section for the economic revitalization area in which the property owner is located.

(b) If:

(1) the property owner **(or, in the case of a deduction under section 4.8 of this chapter, the property owner or a tenant of the property owner)** ceases operations at the facility for which the deduction was granted; and

(2) the designating body finds that the property owner obtained the deduction by intentionally providing false information concerning the property owner's plans to continue operations at the facility;

the property owner shall pay the amount determined under subsection (e) to the county treasurer.

(c) A property owner may appeal the designating body's decision under subsection (b) by filing a complaint in the office of the clerk of the circuit or superior court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner. An appeal under this subsection shall be promptly heard by the court without a jury and determined not more than thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the appeal and may confirm the action of the designating body or sustain the appeal. The judgment of the court is a final determination that may be appealed in the same manner as other civil actions.

(d) If an appeal under subsection (c) is pending, the payment required by this section is not due until after the appeal is finally adjudicated and the property owner's liability for the payment is finally determined.

(e) The county auditor shall determine the amount to be paid by the property owner according to the following formula:

STEP ONE: For each year that the deduction was in effect, determine the additional amount of property taxes that would have been paid by the property owner if the deduction had not been in effect.

STEP TWO: Determine the sum of the STEP ONE amounts.

STEP THREE: Multiply the sum determined under STEP TWO by one and one-tenth (1.1).

(f) The county treasurer shall distribute money paid under this section on a pro rata basis to the general fund of each taxing unit that contains the property that was subject to the deduction. The amount to be distributed to the general fund of each taxing unit shall be determined by the county auditor according to the following formula:

STEP ONE: For each year that the deduction was in effect, determine the additional amount of property taxes that would have been paid by the property owner to the taxing unit if the deduction had not been in effect.

STEP TWO: Determine the sum of the STEP ONE amounts.

STEP THREE: Divide the STEP TWO sum by the sum determined under STEP TWO of subsection (e).

STEP FOUR: Multiply the amount paid by the property owner under subsection (e) by the STEP THREE quotient.

SECTION 36. IC 6-1.1-12.1-14, AS AMENDED BY P.L.193-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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, **or 4.8** 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 applied under this chapter, the property owner shall pay to the county treasurer a fee in an amount determined by the county auditor. The county auditor shall determine the amount of the fee to be paid by the property owner according to the following formula:

STEP ONE: Determine the additional amount of property taxes that would have been paid by the property owner during the year if the deduction had not been in effect.

STEP TWO: Multiply the amount determined under STEP ONE by the percentage determined by the designating body under subsection (b), which may not exceed fifteen percent (15%). The percentage determined by the designating body remains in effect throughout the term of the deduction and may not be changed.

STEP THREE: Determine the lesser of the STEP TWO product or one hundred thousand dollars ($100,000).

(d) Fees collected under this section must be distributed to one (1) or more public or nonprofit entities established to promote economic development within the corporate limits of the city, town, or county served by the designating body. The designating body shall notify the county auditor of the entities that are to receive distributions under this section and the relative proportions of those distributions. The county auditor shall distribute fees collected under this section in accordance with the designating body's instructions.

(e) If the designating body determines that a property owner has not paid a fee imposed under this section, the designating body may adopt a resolution terminating the property owner's deduction under

section 3, ~~or~~ 4.5, **or 4.8** 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 37. IC 6-1.1-12.4-3, AS ADDED BY P.L.193-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 3. (a) For purposes of this section, an increase in the assessed value of personal property is determined in the same manner that an increase in the assessed value of new manufacturing equipment is determined for purposes of IC 6-1.1-12.1.

(b) This subsection applies only to personal property that the owner purchases after March 1, 2005, and before March 2, 2009. Except as provided in sections 4, 5, and 8 of this chapter, an owner that purchases personal property other than inventory (as defined in 50 IAC 4.2-5-1, as in effect on January 1, 2005) that:

(1) was never before used by its owner for any purpose in Indiana; and

(2) creates or retains employment;

is entitled to a deduction from the assessed value of the personal property.

(c) The deduction under this section is first available in the year in which the increase in assessed value resulting from the purchase of the personal property occurs and continues for the following two (2) years. The amount of the deduction that a property owner may receive with respect to personal property located in a county for a particular year equals the lesser of:

(1) two million dollars ($2,000,000); or

(2) the product of:

(A) the increase in assessed value resulting from the purchase of the personal property; multiplied by

(B) the percentage from the following table:

YEAR OF DEDUCTION	PERCENTAGE
1st	75%
2nd	50%
3rd	25%

(d) If an appeal of an assessment is approved that results in a reduction of the assessed value of the personal property, the amount of the deduction is adjusted to reflect the percentage decrease that results from the appeal.

(e) A property owner must claim the deduction under this section on the owner's annual personal property tax return. The township assessor shall:

(1) identify the personal property eligible for the deduction to the county auditor; and

(2) inform the county auditor of the deduction amount.

(f) The county auditor shall:

(1) make the deductions; and

(2) notify the county property tax assessment board of appeals of all deductions approved;

under this section.

(g) The deduction under this section does not apply to personal property at a facility listed in IC 6-1.1-12.1-3(e).

SECTION 38. IC 6-1.1-14-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) After holding the hearings referred to in section 4 of this chapter, the department of local government finance shall, in order to equalize assessed values in any county or in the state as a whole, issue an order increasing or decreasing assessed values of any tangible property if the department finds:

(1) that the assessed values in any county are not uniform and equal as to townships, portions of the same township, or classes of property; or

(2) that the assessed values in this state are not uniform and equal either as between counties or as to classes of property.

(b) The department of local government finance may not issue an equalization order to increase or decrease assessed values under this section more than twelve (12) months after the county estimates of assessed valuation required under ~~IC 6-1.1-17-1~~ **IC 6-1.1-17-1(a)** are filed with the department.

(c) If the department of local government finance issues an equalization order under this section, the department shall state in the order the percentage to be added to or deducted from the assessed value of the tangible property affected by the order.

(d) In issuing an equalization order under this section, the department of local government finance may not reduce or increase the aggregate assessed values of any township beyond the amounts actually necessary for a just and proper equalization of assessments within the entire state.

SECTION 39. IC 6-1.1-15-4, AS AMENDED BY P.L.199-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) After receiving a petition for review which is filed under section 3 of this chapter, the Indiana board shall conduct a hearing at its earliest opportunity. The Indiana board may:

(1) assign:

(A) full;

(B) limited; or

(C) no;

evidentiary value to the assessed valuation of tangible property determined by stipulation submitted as evidence of a comparable sale; and

(2) correct any errors that may have been made, and adjust the assessment in accordance with the correction.

(b) If the Indiana board conducts a site inspection of the property as part of its review of the petition, the Indiana board shall give notice to all parties of the date and time of the site inspection. The Indiana board is not required to assess the property in question. The Indiana board shall give notice of the date fixed for the hearing, by mail, to the taxpayer and to the appropriate township assessor, county assessor, and county auditor. With respect to an appeal of the assessment of real property or personal property filed after June 30, 2005, the notice must include the following:

(1) The action of the county property tax assessment board of appeals with respect to the appealed items.

(2) A statement that a taxing unit receiving the notice from the county auditor under subsection (c) may:

(A) attend the hearing; and

(B) offer testimony.

~~A taxing unit that receives a notice from the county auditor under subsection (c) is not a party to the appeal.~~ The Indiana board shall give these notices at least thirty (30) days before the day fixed for the hearing. The property tax assessment board of appeals that made the determination under appeal under this section may, with the approval of the county executive, file an amicus curiae brief in the review proceeding under this section. The expenses incurred by the property tax assessment board of appeals in filing the amicus curiae brief shall be paid from the property reassessment fund under IC 6-1.1-4-27.5. The executive of a taxing unit may file an amicus curiae brief in the review proceeding under this section if the property whose assessment is under appeal is subject to assessment by that taxing unit.

(c) If, after receiving notice of a hearing under subsection (b), the county auditor determines that the assessed value of the appealed items constitutes at least one percent (1%) of the total gross certified assessed value of a particular taxing unit for the assessment date immediately preceding the assessment date for which the appeal was filed, the county auditor shall send a copy of the notice to the affected taxing unit. **A taxing unit that receives a notice from the county auditor under this subsection is not a party to the appeal.** Failure of the county auditor to send a copy of the notice to the affected taxing unit does not affect the validity of the appeal or delay the appeal.

(d) If a petition for review does not comply with the Indiana board's instructions for completing the form prescribed under section 3 of this chapter, the Indiana board shall return the petition to the petitioner and include a notice describing the defect in the petition. The petitioner then has thirty (30) days from the date on the notice to cure the defect and file a corrected petition. The Indiana board shall deny a corrected petition for review if it does not substantially comply with the Indiana board's instructions for completing the form prescribed under section 3 of this chapter.

(e) The Indiana board shall prescribe a form for use in processing petitions for review of actions by the county property tax assessment board of appeals. The Indiana board shall issue instructions for completion of the form. The form must require the Indiana board to indicate agreement or disagreement with each item that is:

(1) if the county or township official held a preliminary conference under section 1(f) of this chapter, indicated on the petition submitted under that section by the taxpayer and the official; and

(2) included in the county property tax assessment board of appeals' findings, record, and determination under section 2.1(d) of this chapter.

The form must also require the Indiana board to indicate the issues in dispute and its reasons in support of its resolution of those issues.

(f) After the hearing the Indiana board shall give the petitioner, the township assessor, the county assessor, **and** the county auditor: ~~and the affected taxing units required to be notified under subsection (c):~~

(1) notice, by mail, of its final determination;

(2) a copy of the form completed under subsection (e); and

(3) notice of the procedures they must follow in order to obtain court review under section 5 of this chapter.

The county auditor shall provide copies of the documents described in subdivisions (1) through (3) to the taxing units entitled to notice under subsection (c).

(g) Except as provided in subsection (h), the Indiana board shall conduct a hearing not later than nine (9) months after a petition in proper form is filed with the Indiana board, excluding any time due to a delay reasonably caused by the petitioner.

(h) With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the Indiana board shall conduct a hearing not later than one (1) year after a petition in proper form is filed with the Indiana board, excluding any time due to a delay reasonably caused by the petitioner.

(i) Except as provided in subsection (j), the Indiana board shall make a determination not later than the later of:

(1) ninety (90) days after the hearing; or

(2) the date set in an extension order issued by the Indiana board.

(j) With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the Indiana board shall make a determination not later than the later of:

(1) one hundred eighty (180) days after the hearing; or

(2) the date set in an extension order issued by the Indiana board.

(k) ~~Except as provided in subsection (p),~~ The Indiana board may not extend the final determination date under subsection (i) or (j) by more than one hundred eighty (180) days. If the Indiana board fails to make a final determination within the time allowed by this ~~subsection,~~ **section after a hearing,** the entity that initiated the petition may:

(1) take no action and wait for the Indiana board to make a final determination; or

(2) petition for judicial review under section 5(g) of this chapter.

(l) A final determination must include separately stated findings of fact for all aspects of the determination. Findings of ultimate fact must be accompanied by a concise statement of the underlying basic facts of record to support the findings. Findings must be based exclusively upon the evidence on the record in the proceeding and on matters officially noticed in the proceeding. Findings must be based upon a preponderance of the evidence.

(m) The Indiana board may limit the scope of the appeal to the issues raised in the petition and the evaluation of the evidence presented to the county property tax assessment board of appeals in support of those issues only if all persons participating in the hearing required under subsection (a) agree to the limitation. A person participating in the hearing required under subsection (a) is entitled to introduce evidence that is otherwise proper and admissible without regard to whether that evidence has previously been introduced at a hearing before the county property tax assessment board of appeals.

(n) The Indiana board:

(1) may require the parties to the appeal to file not more than five (5) business days before the date of the hearing required under subsection (a) documentary evidence or summaries of statements of testimonial evidence; and

(2) may require the parties to the appeal to file not more than fifteen (15) business days before the date of the hearing required under subsection (a) lists of witnesses and exhibits to be introduced at the hearing.

(o) A party to a proceeding before the Indiana board shall provide to another party to the proceeding the information described in subsection (n) if the other party requests the information in writing at least ten (10) days before the deadline for filing of the information under subsection (n).

(p) The county assessor may:

(1) appear as an additional party if the notice of appearance is filed before the review proceeding; or

(2) with the approval of the township assessor, represent the township assessor;

in a review proceeding under this section.

(q) The Indiana board may base its final determination on a stipulation between the respondent and the petitioner. If the final determination is based on a stipulated assessed valuation of tangible property, the Indiana board may order the placement of a notation on the permanent assessment record of the tangible property that the assessed valuation was determined by stipulation. The Indiana board may:

(1) order that a final determination under this subsection has no precedential value; or

(2) specify a limited precedential value of a final determination under this subsection.

SECTION 40. IC 6-1.1-15-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. A class action suit against the Indiana board **or the department of local government finance** may not be maintained in any court, including the Indiana tax court, on behalf of a person who has not complied with the requirements of this chapter or IC 6-1.1-26 before the certification of the class.

SECTION 41. IC 6-1.1-17-0.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.5. (a) For purposes of this section, "assessed value" has the meaning set forth in IC 6-1.1-1-3(a).

(b) The county auditor may exclude and keep separate on the tax duplicate for taxes payable in a calendar year the assessed value of tangible property that meets the following conditions:

(1) The assessed value of the property is at least nine percent (9%) of the assessed value of all tangible property subject to taxation by a taxing unit. ~~(as defined in IC 6-1.1-1-21).~~

(2) The property is or has been part of a bankruptcy estate that is subject to protection under the federal bankruptcy code.

(3) The owner of the property has discontinued all business operations on the property.

(4) There is a high probability that the taxpayer will not pay property taxes due on the property in the following year.

(c) This section does not limit, restrict, or reduce in any way the property tax liability on the property.

(d) For each taxing unit located in the county, the county auditor may reduce for a calendar year the taxing unit's assessed value that is certified to the department of local government finance under section 1 of this chapter and used to set tax rates for the taxing unit for taxes first due and payable in the immediately succeeding calendar year. The county auditor may reduce a taxing unit's assessed value under this subsection only to enable the taxing unit to absorb the effects of reduced property tax collections in the immediately succeeding calendar year that are expected to result from successful appeals of the assessed value of property located in the taxing unit. The county auditor shall keep separately on the tax duplicate the amount of any reductions made under this subsection. The maximum amount of the reduction authorized under this subsection is determined under subsection (e).

(e) The amount of the reduction in a taxing unit's assessed value for a calendar year under subsection (d) may not exceed the lesser of:

(1) two percent (2%) of the assessed value of tangible property subject to assessment in the taxing unit in that calendar year; or

(2) the total amount of reductions in the assessed value of tangible property subject to assessment in the taxing unit

that:

(A) applied for the assessment date in the immediately preceding year; and

(B) resulted from successful appeals of the assessed value of the property.

(f) The amount of a reduction under subsection (d) may not be offered in a proceeding before the:

(1) county property tax assessment board of appeals;

(2) Indiana board; or

(3) Indiana tax court;

as evidence that a particular parcel has been improperly assessed.

SECTION 42. IC 6-1.1-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) On or before August 1 of each year, the county auditor shall send a certified statement, under the seal of the board of county commissioners, to the fiscal officer of each political subdivision of the county and the department of local government finance. The statement shall contain:

(1) information concerning the assessed valuation in the political subdivision for the next calendar year;

(2) an estimate of the taxes to be distributed to the political subdivision during the last six (6) months of the current calendar year;

(3) the current assessed valuation as shown on the abstract of charges;

(4) the average growth in assessed valuation in the political subdivision over the preceding three (3) budget years, excluding years in which a general reassessment occurs, determined according to procedures established by the department of local government finance; ~~and~~

(5) the amount of the political subdivision's assessed valuation reduction determined under section 0.5(d) of this chapter; and

~~(5)~~ **(6)** any other information at the disposal of the county auditor that might affect the assessed value used in the budget adoption process.

(b) The estimate of taxes to be distributed shall be based on:

(1) the abstract of taxes levied and collectible for the current calendar year, less any taxes previously distributed for the calendar year; and

(2) any other information at the disposal of the county auditor which might affect the estimate.

(c) The fiscal officer of each political subdivision shall present the county auditor's statement to the proper officers of the political subdivision.

(d) Subject to subsection (e) and except as provided in subsection (f), after the county auditor sends a certified statement under subsection (a) or an amended certified statement under this subsection with respect to a political subdivision and before the department of local government finance certifies its action with respect to the political subdivision under section 16(f) of this chapter, the county auditor may amend the information concerning assessed valuation included in the earlier certified statement. The county auditor shall send a certified statement amended under this subsection, under the seal of the board of county commissioners, to:

(1) the fiscal officer of each political subdivision affected by the amendment; and

(2) the department of local government finance.

(e) Except as provided in subsection (g), before the county auditor makes an amendment under subsection (d), the county auditor must provide an opportunity for public comment on the proposed amendment at a public hearing. The county auditor must give notice of the hearing under IC 5-3-1. If the county auditor makes the amendment as a result of information provided to the county auditor by an assessor, the county auditor shall give notice of the public hearing to the assessor.

(f) Subsection (d) does not apply to an adjustment of assessed valuation under IC 36-7-15.1-26.9(d).

(g) The county auditor is not required to hold a public hearing under subsection (e) if:

(1) the amendment under subsection (d) is proposed to correct a mathematical error made in the determination of the amount of assessed valuation included in the earlier certified statement;

(2) the amendment under subsection (d) is proposed to add to the amount of assessed valuation included in the earlier certified statement assessed valuation of omitted property discovered after the county auditor sent the earlier certified statement; or

(3) the county auditor determines that the amendment under subsection (d) will not result in an increase in the tax rate or tax rates of the political subdivision.

SECTION 43. IC 6-1.1-17-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.5. (a) If a county auditor reduces a taxing unit's assessed valuation under section 0.5(d) of this chapter, the department of local government finance shall, in the manner prescribed in section 16 of this chapter, review the budget, tax rate, and tax levy of the taxing unit.**

(b) The county auditor may appeal to the department of local government finance to reduce a taxing unit's assessed valuation by an amount that exceeds the limits set forth in section 0.5(e) of this chapter. The department of local government finance:

(1) may require the county auditor to submit supporting information with the county auditor's appeal;

(2) shall consider the appeal at the time of the review required by subsection (a); and

(3) may approve, modify and approve, or reject the amount of the reduction sought in the appeal.

SECTION 44. IC 6-1.1-17-16, AS AMENDED BY P.L.228-2005, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) Subject to the limitations and requirements prescribed in this section, the department of local government finance may revise, reduce, or increase a political subdivision's budget by fund, tax rate, or tax levy which the department reviews under section 8 or 10 of this chapter.

(b) Subject to the limitations and requirements prescribed in this section, the department of local government finance may review, revise, reduce, or increase the budget by fund, tax rate, or tax levy of any of the political subdivisions whose tax rates compose the aggregate tax rate within a political subdivision whose budget, tax rate, or tax levy is the subject of an appeal initiated under this chapter.

(c) Except as provided in subsections (j) and (k), before the department of local government finance reviews, revises, reduces, or increases a political subdivision's budget by fund, tax rate, or tax levy under this section, the department must hold a public hearing on the budget, tax rate, and tax levy. The department of local government finance shall hold the hearing in the county in which the political subdivision is located. The department of local government finance may consider the budgets by fund, tax rates, and tax levies of several political subdivisions at the same public hearing. At least five (5) days before the date fixed for a public hearing, the department of local government finance shall give notice of the time and place of the hearing and of the budgets by fund, levies, and tax rates to be considered at the hearing. The department of local government finance shall publish the notice in two (2) newspapers of general circulation published in the county. However, if only one (1) newspaper of general circulation is published in the county, the department of local government finance shall publish the notice in that newspaper.

(d) Except as provided in subsection (i), ~~IC 6-1.1-19,~~ **IC 20-45, IC 20-46,** or IC 6-1.1-18.5, the department of local government finance may not increase a political subdivision's budget by fund, tax rate, or tax levy to an amount which exceeds the amount originally fixed by the political subdivision. The department of local government finance shall give the political subdivision written notification specifying any revision, reduction, or increase the department proposes in a political subdivision's tax levy or tax rate. The political subdivision has one (1) week from the date the political subdivision receives the notice to provide a written response to the department of local government finance's Indianapolis office specifying how to make the required reductions in the amount budgeted by fund. The department of local government finance shall make reductions as specified in the political subdivision's response if the response is provided as required by this subsection and sufficiently specifies all necessary reductions. The department of local

government finance may make a revision, a reduction, or an increase in a political subdivision's budget only by fund.

(e) The department of local government finance may not approve a levy for lease payments by a city, town, county, library, or school corporation if the lease payments are payable to a building corporation for use by the building corporation for debt service on bonds and if:

(1) no bonds of the building corporation are outstanding; or

(2) the building corporation has enough legally available funds on hand to redeem all outstanding bonds payable from the particular lease rental levy requested.

(f) The department of local government finance shall certify its action to:

(1) the county auditor;

(2) the political subdivision if the department acts pursuant to an appeal initiated by the political subdivision;

(3) the **taxpayer that initiated an appeal under section 13 of this chapter, or, if the appeal was initiated by multiple taxpayers, the** first ten (10) taxpayers whose names appear on ~~a petition filed under section 13 of this chapter,~~ **the statement filed to initiate the appeal;** and

(4) a taxpayer that owns property that represents at least ten percent (10%) of the taxable assessed valuation in the political subdivision.

(g) The following may petition for judicial review of the final determination of the department of local government finance under subsection (f):

(1) If the department acts under an appeal initiated by a political subdivision, the political subdivision.

(2) If the department:

(A) acts under an appeal initiated by **one (1) or more** taxpayers under section 13 of this chapter; **or**

(B) fails to act on the appeal before the department certifies its action under subsection (f);

a taxpayer who signed the ~~petition under that section.~~ **statement filed to initiate the appeal.**

(3) If the department acts under an appeal initiated by the county auditor under section 14 of this chapter, the county auditor.

(4) A taxpayer that owns property that represents at least ten percent (10%) of the taxable assessed valuation in the political subdivision.

The petition must be filed in the tax court not more than forty-five (45) days after the department certifies its action under subsection (f).

(h) The department of local government finance is expressly directed to complete the duties assigned to it under this section not later than February 15th of each year for taxes to be collected during that year.

(i) Subject to the provisions of all applicable statutes, the department of local government finance may increase a political subdivision's tax levy to an amount that exceeds the amount originally fixed by the political subdivision if the increase is:

(1) requested in writing by the officers of the political subdivision;

(2) either:

(A) based on information first obtained by the political subdivision after the public hearing under section 3 of this chapter; or

(B) results from an inadvertent mathematical error made in determining the levy; and

(3) published by the political subdivision according to a notice provided by the department.

(j) The department of local government finance shall annually review the budget by fund of each school corporation not later than April 1. The department of local government finance shall give the school corporation written notification specifying any revision, reduction, or increase the department proposes in the school corporation's budget by fund. A public hearing is not required in connection with this review of the budget.

(k) The department of local government finance may hold a hearing under subsection (c) only if the notice required in IC 6-1.1-17-12 is published at least ten (10) days before the date of the hearing.

SECTION 45. IC 6-1.1-18-12, AS AMENDED BY HEA 1134-2006, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: 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 12-29-3-6;
(8) IC 13-21-3-12;
(9) IC 13-21-3-15;
(10) IC 14-27-6-30;
(11) IC 14-33-7-3;
(12) IC 14-33-21-5;
(13) IC 15-1-6-2;
(14) IC 15-1-8-1;
(15) IC 15-1-8-2;
(16) IC 16-20-2-18;
(17) IC 16-20-4-27;
(18) IC 16-20-7-2;
(19) IC 16-22-14;
~~(19)~~ **(20)** IC 16-23-1-29;
~~(20)~~ **(21)** IC 16-23-3-6;
~~(21)~~ **(22)** IC 16-23-4-2;
~~(22)~~ **(23)** IC 16-23-5-6;
~~(23)~~ **(24)** IC 16-23-7-2;
~~(24)~~ **(25)** IC 16-23-8-2;
~~(25)~~ **(26)** IC 16-23-9-2;
~~(26)~~ **(27)** IC 16-41-15-5;
~~(27)~~ **(28)** IC 16-41-33-4;
~~(28)~~ **(29)** IC 20-46-2-3;
(30) IC 20-46-6-5;
~~(29)~~ **(31)** IC 20-49-2-10;
~~(30)~~ **(32)** IC 23-13-17-1;
~~(31)~~ **(33)** IC 23-14-66-2;
~~(32)~~ **(34)** IC 23-14-67-3;
~~(33)~~ **(35)** IC 36-7-13-4;
~~(34)~~ **(36)** IC 36-7-14-28;
~~(35)~~ **(37)** IC 36-7-15.1-16;
~~(36)~~ **(38)** IC 36-8-19-8.5;
~~(37)~~ **(39)** IC 36-9-6.1-2;
~~(38)~~ **(40)** IC 36-9-17.5-4;
~~(39)~~ **(41)** IC 36-9-27-73;
~~(40)~~ **(42)** IC 36-9-29-31;
~~(41)~~ **(43)** IC 36-9-29.1-15;
~~(42)~~ **(44)** IC 36-10-6-2;
~~(43)~~ **(45)** IC 36-10-7-7;
~~(44)~~ **(46)** IC 36-10-7-8;
~~(45)~~ **(47)** IC 36-10-7.5-19;
~~(46)~~ **(48)** IC 36-10-13-5;
~~(47)~~ **(49)** IC 36-10-13-7;
~~(48)~~ **(50)** IC 36-10-14-4;
~~(49)~~ **(51)** IC 36-12-7-7;
~~(50)~~ **(52)** IC 36-12-7-8;
~~(51)~~ **(53)** IC 36-12-12-10; and
~~(52)~~ **(54)** 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 46. IC 6-1.1-18.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter:

"Ad valorem property tax levy for an ensuing calendar year" means the total property taxes imposed by a civil taxing unit for current property taxes collectible in that ensuing calendar year.

"Adopting county" means any county in which the county adjusted gross income tax is in effect.

"Civil taxing unit" means any taxing unit except a school corporation.

"Maximum permissible ad valorem property tax levy for the preceding calendar year" means **the greater of:**

(1) the remainder of:
(A) the civil taxing unit's maximum permissible ad valorem property tax levy for the calendar year immediately preceding the ensuing calendar year, as that levy was determined under section 3 of this chapter; minus
(B) one-half (1/2) of the remainder of:
(i) the civil taxing unit's maximum permissible ad valorem property tax levy referred to in clause (A); minus
(ii) the civil taxing unit's ad valorem property tax levy for the calendar year immediately preceding the ensuing calendar year referred to in subdivision (2); or

(2) the civil taxing unit's ad valorem property tax levy for the calendar year immediately preceding the ensuing calendar year, as that levy was determined by the department of local government finance in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17, and after eliminating the effects of temporary excessive levy appeals and temporary adjustments made to the working maximum levy for the calendar year immediately preceding the ensuing calendar year, as determined by the department of local government finance.

"Taxable property" means all tangible property that is subject to the tax imposed by this article and is not exempt from the tax under IC 6-1.1-10 or any other law. For purposes of sections 2 and 3 of this chapter, the term "taxable property" is further defined in section 6 of this chapter.

"Unadjusted assessed value" means the assessed value of a civil taxing unit as determined by local assessing officials and the department of local government finance in a particular calendar year before the application of an annual adjustment under IC 6-1.1-4-4.5 for that particular calendar year or any calendar year since the last general reassessment preceding the particular calendar year.

SECTION 47. IC 6-1.1-18.5-13, AS AMENDED BY HEA 1156-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. With respect to an appeal filed under section 12 of this chapter, the local government tax control board may recommend that a civil taxing unit receive any one (1) or more of the following types of relief:

(1) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if in the judgment of the local government tax control board the increase is reasonably necessary due to increased costs of the civil taxing unit resulting from annexation, consolidation, or other extensions of governmental services by the civil taxing unit to additional geographic areas or persons.

(2) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to meet the civil taxing unit's share of the costs of operating a court established by statute enacted after December 31, 1973. Before recommending such an increase, the local government tax control board shall consider all other revenues available to the civil taxing unit that could be applied for that purpose. The maximum aggregate levy increases that the local government tax control board may recommend for a particular court equals the civil taxing unit's estimate of the unit's share of the costs of operating a court for the first full calendar year in which it is in existence. For purposes of this subdivision, costs of operating a court include:
(A) the cost of personal services (including fringe benefits);
(B) the cost of supplies; and
(C) any other cost directly related to the operation of the court.

(3) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the quotient determined under STEP SIX of the following formula is equal to or greater than one and ~~three-hundredths (1.03).~~ **two-hundredths (1.02):**

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

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the sum of the civil taxing unit's total assessed value of all taxable property and the total assessed value of property tax deductions in the unit under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular calendar year, divided by the sum of the civil taxing unit's total assessed value of all taxable property and the total assessed value of property tax deductions in the unit under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

STEP FOUR: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the sum of the total assessed value of all taxable property in all counties and the total assessed value of property tax deductions in all counties

under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular calendar year, divided by the sum of the total assessed value of all taxable property in all counties and the total assessed value of property tax deductions in all counties under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the calendar year immediately preceding the particular calendar year.

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

STEP SIX: Divide the STEP THREE amount by the STEP FIVE amount.

The civil taxing unit may increase its levy by a percentage not greater than the percentage by which the STEP THREE amount exceeds the percentage by which the civil taxing unit may increase its levy under section 3 of this chapter based on the assessed value growth quotient determined under section 2 of this chapter.

(4) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to pay the costs of furnishing fire protection for the civil taxing unit through a volunteer fire department. For purposes of determining a township's need for an increased levy, the local government tax control board shall not consider the amount of money borrowed under IC 36-6-6-14 during the immediately preceding calendar year. However, any increase in the amount of the civil taxing unit's levy recommended by the local government tax control board under this subdivision for the ensuing calendar year may not exceed the lesser of:

(A) ten thousand dollars ($10,000); or

(B) twenty percent (20%) of:

(i) the amount authorized for operating expenses of a volunteer fire department in the budget of the civil taxing unit for the immediately preceding calendar year; plus

(ii) the amount of any additional appropriations authorized during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department under this chapter; minus

(iii) the amount of money borrowed under IC 36-6-6-14 during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department.

(5) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter in order to raise revenues for pension payments and contributions the civil taxing unit is required to make under IC 36-8. The maximum increase in a civil taxing unit's levy that may be recommended under this subdivision for an ensuing calendar year equals the amount, if any, by which the pension payments and contributions the civil taxing unit is required to make under IC 36-8 during the ensuing calendar year exceeds the product of one and one-tenth (1.1) multiplied by the pension payments and contributions made by the civil taxing unit under IC 36-8 during the calendar year that immediately precedes the ensuing calendar year. For purposes of this subdivision, "pension payments and contributions made by a civil taxing unit" does not include that part of the payments or contributions that are funded by distributions made to a civil taxing unit by the state.

(6) Permission to increase its levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the township's township assistance ad valorem property tax rate is less than one and sixty-seven hundredths cents ($0.0167) per one hundred dollars ($100) of assessed valuation; and

(B) the township needs the increase to meet the costs of providing township assistance under IC 12-20 and IC 12-30-4.

The maximum increase that the board may recommend for a township is the levy that would result from an increase in the township's township assistance ad valorem property tax rate of one and sixty-seven hundredths cents ($0.0167) per one hundred dollars ($100) of assessed valuation minus the township's ad valorem property tax rate per one hundred dollars ($100) of assessed valuation before the increase.

(7) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) the increase has been approved by the legislative body of the municipality with the largest population where the civil taxing unit provides public transportation services; and

(B) the local government tax control board finds that the civil taxing unit needs the increase to provide adequate public transportation services.

The local government tax control board shall consider tax rates and levies in civil taxing units of comparable population, and the effect (if any) of a loss of federal or other funds to the civil taxing unit that might have been used for public transportation purposes. However, the increase that the board may recommend under this subdivision for a civil taxing unit may not exceed the revenue that would be raised by the civil taxing unit based on a property tax rate of one cent ($0.01) per one hundred dollars ($100) of assessed valuation.

(8) Permission to a civil taxing unit to increase the unit's levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the civil taxing unit is:

(i) a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000);

(ii) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000);

(iii) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);

(iv) a city having a population of more than fifteen thousand four hundred (15,400) but less than sixteen thousand six hundred (16,600); or

(v) a city having a population of more than seven thousand (7,000) but less than seven thousand three hundred (7,300); and

(B) the increase is necessary to provide funding to undertake removal (as defined in IC 13-11-2-187) and remedial action (as defined in IC 13-11-2-185) relating to hazardous substances (as defined in IC 13-11-2-98) in solid waste disposal facilities or industrial sites in the civil taxing unit that have become a menace to the public health and welfare.

The maximum increase that the local government tax control board may recommend for such a civil taxing unit is the levy that would result from a property tax rate of six and sixty-seven hundredths cents ($0.0667) for each one hundred dollars ($100) of assessed valuation. For purposes of computing the ad valorem property tax levy limit imposed on a civil taxing unit under section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular year does not include that part of the levy imposed under this subdivision. In addition, a property tax increase permitted under this subdivision may be imposed for only two (2) calendar years.

(9) Permission for a county:

(A) having a population of more than eighty thousand (80,000) but less than ninety thousand (90,000) to increase the county's levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the county needs the increase to meet the county's share of the costs of operating a jail or juvenile detention center, including expansion of the facility, if the jail or juvenile detention center is opened after December 31, 1991;

(B) that operates a county jail or juvenile detention center that is subject to an order that:

(i) was issued by a federal district court; and

(ii) has not been terminated;

(C) that operates a county jail that fails to meet:

(i) American Correctional Association Jail Construction Standards; and

(ii) Indiana jail operation standards adopted by the department of correction; or

(D) that operates a juvenile detention center that fails to meet standards equivalent to the standards described in clause (C) for the operation of juvenile detention centers.

Before recommending an increase, the local government tax control board shall consider all other revenues available to the county that could be applied for that purpose. An appeal for operating funds for a jail or a juvenile detention center shall be considered individually, if a jail and juvenile detention center are both opened in one (1) county. The maximum aggregate levy increases that the local government tax control board may recommend for a county equals the county's share of the costs of operating the jail or a juvenile detention center for the first full calendar year in which the jail or juvenile detention center is in operation.

(10) Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township needs the increase so that the property tax rate to pay the costs of furnishing fire protection for a township, or a portion of a township, enables the township to pay a fair and reasonable amount under a contract with the municipality that is furnishing the fire protection. However, for the first time an appeal is granted the resulting rate increase may not exceed fifty percent (50%) of the difference between the rate imposed for fire protection within the municipality that is providing the fire protection to the township and the township's rate. A township is required to appeal a second time for an increase under this subdivision if the township wants to further increase its rate. However, a township's rate may be increased to equal but may not exceed the rate that is used by the municipality. More than one (1) township served by the same municipality may use this appeal.

(11) Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township has been required, for the three (3) consecutive years preceding the year for which the appeal under this subdivision is to become effective, to borrow funds under IC 36-6-6-14 to furnish fire protection for the township or a part of the township. However, the maximum increase in a township's levy that may be allowed under this subdivision is the least of the amounts borrowed under IC 36-6-6-14 during the preceding three (3) calendar years. A township may elect to phase in an approved increase in its levy under this subdivision over a period not to exceed three (3) years. A particular township may appeal to increase its levy under this section not more frequently than every fourth calendar year.

(12) Permission to a city having a population of more than twenty-nine thousand (29,000) but less than thirty-one thousand (31,000) to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) an appeal was granted to the city under this section to reallocate property tax replacement credits under IC 6-3.5-1.1 in 1998, 1999, and 2000; and

(B) the increase has been approved by the legislative body of the city, and the legislative body of the city has by resolution determined that the increase is necessary to pay normal operating expenses.

The maximum amount of the increase is equal to the amount of property tax replacement credits under IC 6-3.5-1.1 that the city petitioned under this section to have reallocated in 2001 for a purpose other than property tax relief.

SECTION 48. IC 6-1.1-18.5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 17. (a) As used in this section, "levy excess" means the part of the ad valorem property tax levy actually collected by a civil taxing unit, for taxes first due and payable during a particular calendar year, that exceeds the civil taxing unit's ad valorem property tax levy, as approved by the department of local government finance under IC 6-1.1-17. **The term does not include delinquent ad valorem property taxes collected during a particular year that were assessed for an assessment date that precedes the assessment date for the current year in which the ad valorem property taxes are collected.**

(b) A civil taxing unit's levy excess is valid and may not be contested on the grounds that it exceeds the civil taxing unit's levy limit for the applicable calendar year. However, the civil taxing unit shall deposit, except as provided in subsection (h), its levy excess in a special fund to be known as the civil taxing unit's levy excess fund.

(c) The chief fiscal officer of a civil taxing unit may invest money in the civil taxing unit's levy excess fund in the same manner in which money in the civil taxing unit's general fund may be invested. However, any income derived from investment of the money shall be deposited in and becomes a part of the levy excess fund.

(d) The department of local government finance shall require a civil taxing unit to include the amount in its levy excess fund in the civil taxing unit's budget fixed under IC 6-1.1-17.

(e) Except as provided by subsection (f), a civil taxing unit may not spend any money in its levy excess fund until the expenditure of the money has been included in a budget that has been approved by the department of local government finance under IC 6-1.1-17. For purposes of fixing its budget and for purposes of the ad valorem property tax levy limits imposed under this chapter, a civil taxing unit shall treat the money in its levy excess fund that the department of local government finance permits it to spend during a particular calendar year as part of its ad valorem property tax levy for that same calendar year.

(f) A civil taxing unit may transfer money from its levy excess fund to its other funds to reimburse those funds for amounts withheld from the civil taxing unit as a result of refunds paid under IC 6-1.1-26.

(g) Subject to the limitations imposed by this section, a civil taxing unit may use money in its levy excess fund for any lawful purpose for which money in any of its other funds may be used.

(h) If the amount that would, notwithstanding this subsection, be deposited in the levy excess fund of a civil taxing unit for a particular calendar year is less than one hundred dollars ($100), no money shall be deposited in the levy excess fund of the unit for that year.

SECTION 49. IC 6-1.1-19-1.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 1.7. (a) As used in this section, "levy excess" means that portion of the ad valorem property tax levy actually collected by a school corporation, for taxes first due and payable during a particular calendar year, which exceeds the school corporation's total levy, as approved by the department of local government finance under IC 6-1.1-17, for those property taxes. **The term does not include delinquent ad valorem property taxes collected during a particular year that were assessed for an assessment date that precedes the assessment date for the current year in which the ad valorem property taxes are collected.**

(b) A school corporation's levy excess is valid, and the general fund portion of a school corporation's levy excess may not be contested on the grounds that it exceeds the school corporation's general fund levy limit for the applicable calendar year. However, the school corporation shall deposit, except as provided in subsection (h), its levy excess in a special fund to be known as the school corporation's levy excess fund.

(c) The chief fiscal officer of a school corporation may invest money in the school corporation's levy excess fund in the same manner in which money in the school corporation's general fund may be invested. However, any income derived from investment of the money shall be deposited in and become a part of the levy excess fund.

(d) The department of local government finance shall require a school corporation to include the amount in the school corporation's levy excess fund in the school corporation's budget fixed under IC 6-1.1-17.

(e) Except as provided in subsection (f), a school corporation may not spend any money in its levy excess fund until the expenditure of the money has been included in a budget that has been approved by the department of local government finance under IC 6-1.1-17. For purposes of fixing its budget and for purposes of the ad valorem property tax levy limits fixed under this chapter, a school corporation shall treat the money in its levy excess fund that the department of local government finance permits the school corporation to spend during a particular calendar year as part of the school corporation's ad valorem property tax levy for that same calendar year.

(f) A school corporation may transfer money from its levy excess fund to its other funds to reimburse those funds for amounts withheld from the school corporation as a result of refunds paid under IC 6-1.1-26.

(g) Subject to the limitations imposed by this section, a school corporation may use money in its levy excess fund for any lawful purpose for which money in any of its other funds may be used.

(h) If the amount that would be deposited in the levy excess fund of a school corporation for a particular calendar year is less than one hundred dollars ($100), no money shall be deposited in the levy excess fund of the school corporation for that year.

SECTION 50. IC 6-1.1-20.9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) An individual who desires to claim the credit provided by section 2 of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the homestead is located. The statement shall include the parcel number or key number of the real estate and the name of the city, town, or township in which the real estate is located. With respect to real property, the statement must be filed during the twelve (12) months before ~~May~~ **June** 11 of the year prior to the first year for which the person wishes to obtain the credit for the homestead. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March 2 of the first year for which the individual wishes to obtain the credit. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The statement applies for that first year and any succeeding year for which the credit is allowed.

(b) The certified statement referred to in subsection (a) shall contain the name of any other county and township in which the individual owns or is buying real property.

(c) If an individual who is receiving the credit provided by this chapter changes the use of the individual's real property, so that part or all of that real property no longer qualifies for the homestead credit provided by this chapter, the individual must file a certified statement with the auditor of the county, notifying the auditor of the change of use within sixty (60) days after the date of that change. An individual who changes the use of the individual's real property and fails to file the statement required by this subsection is liable for the amount of the credit ~~he~~ **the individual** was allowed under this chapter for that real property.

(d) An individual who receives the credit provided by section 2 of this chapter for property that is jointly held with another owner in a particular year and remains eligible for the credit in the following year is not required to file a statement to reapply for the credit following the removal of the joint owner if:

(1) the individual is the sole owner of the property following the death of the individual's spouse;

(2) the individual is the sole owner of the property following the death of a joint owner who was not the individual's spouse; or

(3) the individual is awarded sole ownership of property in a divorce decree.

SECTION 51. IC 6-1.1-30-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. The department of local government finance shall keep a record of its proceedings and orders. The department of local government finance's record is a public record. A copy of the appropriate portion of the record is sufficient evidence in all courts or proceedings to prove an action, rule, or order of the department of local government finance if the copy is:

(1) certified by the commissioner of the department; and

(2) attested to by ~~the deputy~~ **a designee of the** commissioner of the department.

SECTION 52. IC 6-1.1-31-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) With respect to the assessment of real property, the rules of the department of local government finance shall provide for:

(1) the classification of land on the basis of:

(i) acreage;

(ii) lots;

(iii) size;

(iv) location;

(v) use;

(vi) productivity or earning capacity;

(vii) applicable zoning provisions;

(viii) accessibility to highways, sewers, and other public services or facilities; and

(ix) any other factor that the department determines by rule is just and proper; and

(2) the classification of improvements on the basis of:

(i) size;

(ii) location;

(iii) use;

(iv) type and character of construction;

(v) age;

(vi) condition;

(vii) cost of reproduction; and

(viii) any other factor that the department determines by rule is just and proper.

(b) With respect to the assessment of real property, the rules of the department of local government finance shall include instructions for determining:

(1) the proper classification of real property;

(2) the size of real property;

(3) the effects that location and use have on the value of real property;

~~(4) the depreciation, including physical deterioration and obsolescence, of real property;~~

~~(5) the cost of reproducing improvements;~~

~~(6)~~ **(4)** the productivity or earning capacity of:

(A) agricultural land; and

(B) real property regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more;

~~(7)~~ **(5)** sales data for generally comparable properties; and

~~(8)~~ **(6)** the true tax value of real property based on the factors listed in this subsection and any other factor that the department determines by rule is just and proper.

(c) With respect to the assessment of real property, true tax value does not mean fair market value. Subject to this article, true tax value is the value determined under the rules of the department of local government finance.

SECTION 53. IC 6-1.1-36-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 1.5. (a) Subject to subsections (b) and (c), and except as provided in subsection (d), a document, including a form, a return, or a writing of any type, which must be filed by a due date under this article or IC 6-1.5, is considered to be filed by the due date if the document is:**

(1) received on or before the due date by the appropriate recipient;

(2) deposited in United States first class mail:

(A) properly addressed to the appropriate recipient;

(B) with sufficient postage; and

(C) postmarked by the United States Postal Service as mailed on or before the due date;

(3) deposited with a nationally recognized express parcel carrier and is:

(A) properly addressed to the appropriate recipient; and

(B) verified by the express parcel carrier as:

(i) paid in full for final delivery; and

(ii) received by the express parcel carrier on or before the due date; or

(4) deposited to be mailed through United States registered mail, United States certified mail, or United States certificate of mailing:

(A) properly addressed to the appropriate recipient;

(B) with sufficient postage; and

(C) with a date of registration, certification, or certificate, as evidenced by any record authenticated by the United States Postal Service, on or before the due date.

For purposes of this subsection, "postmarked" does not mean the date printed by a postage meter that affixes postage to the

envelope or package containing a payment.

(b) If a document is mailed through the United States mail and is physically received after the due date without a legible correct postmark, the person who mailed the document is considered to have filed the document on or before the due date if the person can show by reasonable evidence that the document was deposited in the United States mail on or before the due date.

(c) If a document is sent via the United States mail or a nationally recognized express parcel carrier but is not received by the designated recipient, the person who sent the document is considered to have filed the document on or before the due date if the person:

(1) can show by reasonable evidence that the document was deposited in the United States mail, or with the express parcel carrier, on or before the due date; and

(2) files a duplicate document within thirty (30) days after the date the person is notified that the document was not received.

(d) This section does not apply to a payment addressed in IC 6-1.1-37-10(f).

SECTION 54. IC 6-1.1-36-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 12. (a) A board of county commissioners, a county assessor, or an elected township assessor may enter into a ~~properly approved~~ contract for the discovery of property that has been undervalued or omitted from assessment. The contract must prohibit payment to the contractor for discovery of undervaluation or omission with respect to a parcel or personal property return before all appeals of the assessment of the parcel or the assessment under the return have been finalized. The contract may require the contractor to:

(1) examine and verify the accuracy of personal property returns filed by taxpayers with a township assessor of a township in the county; and

(2) compare a return with the books of the taxpayer and with personal property owned, held, possessed, controlled, or occupied by the taxpayer.

~~(b) The investigation and collection expenses of a contract under subsection (a) may be deducted from the gross amount of taxes collected on the undervalued or omitted property that is so discovered. The remainder of the taxes collected on the undervalued or omitted property shall be distributed to the appropriate taxing units.~~

(b) This subsection applies if funds are not appropriated for payment of services performed under a contract described in subsection (a). The county auditor may create a special nonreverting fund in which the county treasurer shall deposit the amount of taxes, including penalties and interest, that result from additional assessments on undervalued or omitted property collected from all taxing jurisdictions in the county after deducting the amount of any property tax credits that reduce the owner's property tax liability for the undervalued or omitted property. The fund remains in existence during the term of the contract. Distributions shall be made from the fund without appropriation only for the following purposes:

(1) All contract fees and other costs related to the contract.

(2) After the payments required by subdivision (1) have been made and the contract has expired, the county auditor shall distribute all money remaining in the fund to the appropriate taxing units in the county using the property tax rates of each taxing unit in effect at the time of the distribution.

(c) A board of county commissioners, a county assessor, or an elected township assessor may not contract for services under subsection (a) on a percentage basis.

SECTION 55. IC 6-1.1-37-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) Except as provided in section 10.5 of this chapter, if an installment of property taxes is not completely paid on or before the due date, a penalty equal to ten percent (10%) of the amount of delinquent taxes shall be added to the unpaid portion in the year of the initial delinquency.

(b) With respect to property taxes due in two (2) equal installments under IC 6-1.1-22-9(a), on the day immediately following the due dates in May and November of each year following the year of the initial delinquency, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added. With respect to property taxes due in installments under IC 6-1.1-22-9.5, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added on the day immediately following each date that succeeds the last installment due date by:

(1) six (6) months; or

(2) a multiple of six (6) months.

(c) The penalties under subsection (b) are imposed only on the principal amount of the delinquent taxes.

(d) If the department of local government finance determines that an emergency has occurred which precludes the mailing of the tax statement in any county at the time set forth in IC 6-1.1-22-8, the department shall establish by order a new date on which the installment of taxes in that county is due and no installment is delinquent if paid by the date so established.

(e) If any due date falls on a Saturday, a Sunday, a national legal holiday recognized by the federal government, or a statewide holiday, the act that must be performed by that date is timely if performed by the next succeeding day that is not a Saturday, a Sunday, or one (1) of those holidays.

(f) **Subject to subsections (g) and (h),** a payment to the county treasurer is considered to have been paid by the due date if the payment is:

(1) received on or before the due date ~~to~~ **by** the county treasurer or a collecting agent appointed by the county treasurer;

(2) deposited in ~~the~~ United States **first class** mail:

(A) properly addressed to the principal office of the county treasurer;

(B) with sufficient postage; and

(C) ~~certified or~~ postmarked by the United States Postal Service as mailed on or before the due date; ~~or~~

(3) deposited with a nationally recognized express parcel carrier and is:

(A) properly addressed to the principal office of the county treasurer; and

(B) verified by the express parcel carrier as:

(i) paid in full for final delivery; and

(ii) received **by the express parcel carrier** on or before the due date;

(4) deposited to be mailed through United States registered mail, United States certified mail, or United States certificate of mailing:

(A) properly addressed to the principal office of the county treasurer;

(B) with sufficient postage; and

(C) with a date of registration, certification, or certificate, as evidenced by any record authenticated by the United States Postal Service, on or before the due date; or

(5) made by an electronic fund transfer and the taxpayer's bank account is charged on or before the due date.

For purposes of this subsection, "postmarked" does not mean the date printed by a postage meter that affixes postage to the envelope or package containing a payment.

(g) If a payment is mailed through the United States mail and is physically received after the due date without a legible correct postmark, the person who mailed the payment is considered to have made the payment on or before the due date if the person can show by reasonable evidence that the payment was deposited in the United States mail on or before the due date.

(h) If a payment is sent via the United states mail or a nationally recognized express parcel carrier but is not received by the designated recipient, the person who sent the payment is considered to have made the payment on or before the due date if the person:

(1) can show by reasonable evidence that the payment was deposited in the United States mail, or with the express parcel carrier, on or before the due date; and

(2) makes a duplicate payment within thirty (30) days after the date the person is notified that the payment was not received.

SECTION 56. IC 6-1.1-39-5, AS AMENDED BY P.L.4-2005,

SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 5. (a) A declaratory ordinance adopted under section 2 of this chapter and confirmed under section 3 of this chapter must include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. The allocation provision must apply to the entire economic development district. The allocation provisions must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the economic development district be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units. However, if the effective date of the allocation provision of a declaratory ordinance is after March 1, 1985, and before January 1, 1986, and if an improvement to property was partially completed on March 1, 1985, the unit may provide in the declaratory ordinance that the taxes attributable to the assessed value of the property as finally determined for March 1, 1984, shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, part or all of the property tax proceeds in excess of those described in subdivision (1), as specified in the declaratory ordinance, shall be allocated to the unit for the economic development district and, when collected, paid into a special fund established by the unit for that economic development district that may be used only to pay the principal of and interest on obligations owed by the unit under IC 4-4-8 (before its repeal) or IC 5-28-9 for the financing of industrial development programs in, or serving, that economic development district. The amount not paid into the special fund shall be paid to the respective units in the manner prescribed by subdivision (1).

(3) When the money in the fund is sufficient to pay all outstanding principal of and interest (to the earliest date on which the obligations can be redeemed) on obligations owed by the unit under IC 4-4-8 (before its repeal) or IC 5-28-9 for the financing of industrial development programs in, or serving, that economic development district, money in the special fund in excess of that amount shall be paid to the respective taxing units in the manner prescribed by subdivision (1).

(b) Property tax proceeds allocable to the economic development district under subsection (a)(2) must, subject to subsection (a)(3), be irrevocably pledged by the unit for payment as set forth in subsection (a)(2).

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the economic development district that is annexed by any taxing unit after the effective date of the allocation provision of the declaratory ordinance is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Notwithstanding any other law, each assessor shall, upon petition of the fiscal body, reassess the taxable property situated upon or in, or added to, the economic development district effective on the next assessment date after the petition.

(e) Notwithstanding any other law, the assessed value of all taxable property in the economic development district, for purposes of tax limitation, property tax replacement (except as provided in IC 6-1.1-21-3(c), IC 6-1.1-21-4(a)(3), and IC 6-1.1-21-5(c)), and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(f) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the district under this section. **After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the district under this section.** However, the ~~adjustment~~ **adjustments under this subsection** may not include the effect of property tax abatements under IC 6-1.1-12.1.

(g) As used in this section, "property taxes" means:

(1) taxes imposed under this article on real property; and

(2) any part of the taxes imposed under this article on depreciable personal property that the unit has by ordinance allocated to the economic development district. However, the ordinance may not limit the allocation to taxes on depreciable personal property with any particular useful life or lives.

If a unit had, by ordinance adopted before May 8, 1987, allocated to an economic development district property taxes imposed under IC 6-1.1 on depreciable personal property that has a useful life in excess of eight (8) years, the ordinance continues in effect until an ordinance is adopted by the unit under subdivision (2).

(h) As used in this section, "base assessed value" means:

(1) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (f); plus

(2) to the extent that it is not included in subdivision (1), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

Subdivision (2) applies only to economic development districts established after June 30, 1997, and to additional areas established after June 30, 1997.

SECTION 57. IC 6-1.1-40-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: **Sec. 1.5. As used in this chapter, "affiliate" means an entity that effectively controls or is controlled by an applicant for a deduction under this chapter or is associated with an applicant for a deduction under this chapter under common ownership or control, whether by shareholdings or other means.**

SECTION 58. IC 6-1.1-40-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 4. As used in this chapter, "new manufacturing equipment" means any tangible personal property that **an applicant for the deduction under section 11 of this chapter:**

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

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

(3) ~~was acquired by its owner~~ **acquires in an arms length transaction from an entity that is not an affiliate of the applicant** for use as described in subdivision (2); and

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

SECTION 59. IC 6-1.1-40-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) **Subject to subsection (e),** an owner of new manufacturing equipment or inventory, or both, whose statement of benefits is approved is entitled to a deduction from the assessed value of that equipment and inventory for a period of ten (10) years. Except as provided in subsections (c) and (d), **and subject to subsection (e),** for the first five (5) years, the amount of the deduction for new manufacturing equipment that an owner is entitled to for a particular year equals the assessed value of the new manufacturing equipment. **Subject to subsection (e),** for the sixth through the tenth year, the amount of the deduction equals the product of:

(1) the assessed value of the new manufacturing equipment; multiplied by

(2) the percentage prescribed in the following table:

YEAR OF DEDUCTION	PERCENTAGE
6th	100%
7th	95%
8th	80%
9th	65%
10th	50%
11th and thereafter	0%

(b) For the first year the amount of the deduction for inventory equals the assessed value of the inventory. For the next nine (9) years, the amount of the deduction equals:

(1) the assessed value of the inventory for that year; multiplied by

(2) the owner's export sales ratio for the previous year, as certified by the department of state revenue under IC 6-3-2-13.

(c) A deduction under this section is not allowed in the first year the deduction is claimed for new manufacturing equipment to the extent that it would cause the assessed value of all of the personal property of the owner in the taxing district in which the equipment is located to be less than the assessed value of all of the personal property of the owner in that taxing district in the immediately preceding year.

(d) If a deduction is not fully allowed under subsection (c) in the first year the deduction is claimed, then the percentages specified in subsection (a) apply in the subsequent years to the amount of deduction that was allowed in the first year.

(e) For purposes of subsection (a), the assessed value of new manufacturing equipment that is part of an owner's assessable depreciable personal property in a single taxing district subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 is the product of:

(1) the assessed value of the equipment determined without regard to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9; multiplied by

(2) the quotient of:

(A) the amount of the valuation limitation determined under 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 for all of the owner's depreciable personal property in the taxing district; divided by

(B) the total true tax value of all of the owner's depreciable personal property in the taxing district that is subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 determined:

(i) under the depreciation schedules in the rules of the department of local government finance before any adjustment for abnormal obsolescence; and

(ii) without regard to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9.

SECTION 60. IC 6-1.1-45-9, AS ADDED BY P.L.214-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) **Subject to subsection (c),** a taxpayer that makes a qualified investment is entitled to a deduction from the assessed value of the taxpayer's enterprise zone property located at the enterprise zone location for which the taxpayer made the qualified investment. The amount of the deduction is equal to the remainder of:

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

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

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

(c) A taxpayer that makes a qualified investment in an enterprise zone established under IC 5-28-15-11 that is under the jurisdiction of a military base reuse authority board created under IC 36-7-14.5 or IC 36-7-30-3 is entitled to a deduction under this section only if the deduction is approved by the military base reuse authority board.

SECTION 61. IC 6-1.5-4-2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2. In order to obtain information that is necessary to the Indiana board's conduct of a necessary or proper inquiry, the Indiana board or a board administrative law judge may:**

(1) subpoena and examine witnesses;

(2) administer oaths; and

(3) subpoena and examine books or papers that are in the hands of any person.

SECTION 62. IC 6-1.5-5-2, AS AMENDED BY P.L.199-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) After receiving a petition for review that is filed under a statute listed in section 1(a) of this chapter, the Indiana board shall, at its earliest opportunity:

(1) conduct a hearing; or

(2) cause a hearing to be conducted by an administrative law judge.

The Indiana board may determine to conduct the hearing under subdivision (1) on its own motion or on request of a party to the appeal.

(b) In its resolution of a petition, the Indiana board may:

(1) assign:

(A) full;

(B) limited; or

(C) no;

evidentiary value to the assessed valuation of tangible property determined by stipulation submitted as evidence of a comparable sale; and

(2) correct any errors that may have been made, and adjust the assessment in accordance with the correction.

(c) The Indiana board shall give notice of the date fixed for the hearing by mail to:

(1) the taxpayer;

(2) the department of local government finance; and

(3) the appropriate:

(A) township assessor;

(B) county assessor; and

(C) county auditor.

(d) With respect to an appeal of the assessment of real property or personal property filed after June 30, 2005, the notices required under subsection (c) must include the following:

(1) The action of the department of local government finance with respect to the appealed items.

(2) A statement that a taxing unit receiving the notice from the county auditor under subsection (e) may:

(A) attend the hearing;

(B) offer testimony; and

(C) file an amicus curiae brief in the proceeding.

~~A taxing unit that receives a notice from the county auditor under subsection (e) is not a party to the appeal.~~

(e) If, after receiving notice of a hearing under subsection (c), the county auditor determines that the assessed value of the appealed items constitutes at least one percent (1%) of the total gross certified assessed value of a particular taxing unit for the assessment date immediately preceding the assessment date for which the appeal was filed, the county auditor shall send a copy of the notice to the affected taxing unit. **A taxing unit that receives a notice from the county auditor under this subsection is not a party to the appeal.** Failure of the county auditor to send a copy of the notice to the affected taxing unit does not affect the validity of the appeal or delay the appeal.

(f) The Indiana board shall give the notices required under subsection (c) at least thirty (30) days before the day fixed for the hearing.

SECTION 63. IC 6-1.5-5-5, AS AMENDED BY P.L.199-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. After the hearing, the Indiana board shall give the petitioner, the township assessor, the county assessor, the county auditor, ~~the affected taxing units required to be notified under section 2(c) of this chapter,~~ and the department of local government finance:

(1) notice, by mail, of its final determination, findings of fact, and conclusions of law; and

(2) notice of the procedures the petitioner or the department of local government finance must follow in order to obtain court

review of the final determination of the Indiana board.

The county auditor shall provide copies of the documents described in subdivisions (1) and (2) to the taxing units entitled to notice under section 2(e) of this chapter.

SECTION 64. IC 6-1.5-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) The Indiana board shall conduct a hearing or cause a hearing to be conducted within six (6) months after a petition in proper form is filed with the Indiana board, excluding any time due to a delay reasonably caused by the petitioner.

(b) The Indiana board shall make a final determination within the later of forty-five (45) days after the hearing or the date set in an extension order issued by the Indiana board. However, the Indiana board may not extend the final determination date by more than one hundred eighty (180) days.

(c) The failure of the Indiana board to conduct a hearing within the period prescribed in this section does not constitute notice to the person of an Indiana board final determination.

~~(c) The failure of~~ **(d) If** the Indiana board **fails** to make a final determination within the time allowed by this section ~~shall be treated as a final determination of~~ **after a hearing, the entity that initiated the petition may:**

(1) take no action and wait for the Indiana board to ~~deny the petition.~~ **make a final determination; or**

(2) initiate a proceeding for judicial review by taking the action required by IC 6-1.1-15-5(b) at any time after the maximum time elapses.

(e) If:

(1) a judicial proceeding is initiated under subsection (d); and

(2) the Indiana board has not issued a determination;

the tax court shall determine the matter de novo.

SECTION 65. IC 8-1.5-5-32, AS ADDED BY SEA 71-2006, SECTION 1, AND HEA 1212-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. (a) This section applies to excluded cities and towns in a county containing a consolidated city.

(b) A municipality to which this section applies may withdraw from the district established by the consolidated city if the municipal legislative body adopts an ordinance withdrawing the municipality from the district. The municipal legislative body shall, at least thirty (30) days before the final vote on the ordinance, mail written notice of the meeting to the following:

(1) All owners of lots and parcels within the municipality that are subject to storm water user fees imposed in the district by the department of public works of the consolidated city.

(2) The department of public works of the consolidated city.

(c) An ordinance described in subsection (b) takes effect sixty (60) days after adoption by the municipal legislative body.

(d) In addition to the notice required by subsection (b), if a municipal legislative body adopts an ordinance under subsection (b), the municipal legislative body shall mail written notice of the withdrawal from the district to the department of public works of the consolidated city not more than thirty (30) days after the ordinance becomes effective.

(e) If on the date of a municipality's withdrawal from the district there are bonds outstanding that have been issued by the board of public works of the consolidated city, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the municipality bears to the assessed valuation of all property included in the district on the date one (1) day before the date of withdrawal, as shown in the most recent assessment for taxation before the date of withdrawal.

(f) If a municipal legislative body adopts an ordinance under subsection (b), the ~~district~~ **municipality** is entitled to receive the following:

(1) An annual lump sum payment equal to the total amount of property taxes paid and allocated to the district's flood debt service fund from all property taxpayers within the municipality, to the extent the property taxes are not necessary to pay the indebtedness owed by the municipality under subsection (e). A payment under this subdivision is required for property taxes assessed beginning on the January 1 preceding the effective date of the municipality's withdrawal from the district.

(2) The total amount of storm water user fees collected by the department of public works of the consolidated city from the lots and parcels in the municipality beginning on the January 1 preceding the effective date of the municipality's withdrawal from the district.

(g) Payments received under subsection (f):

(1) shall be deposited by the municipality in a dedicated fund; and

(2) may be used by the municipality only for purposes of storm water management in the municipality and may not be diverted, directly or indirectly, in any manner to any use other than the purposes of storm water management in the municipality.

SECTION 66. IC 8-22-3.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 11. (a) The state board of accounts and the department of local government finance shall make the rules and prescribe the forms and procedures that the state board of accounts and department consider appropriate for the implementation of this chapter.

(b) After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value (as defined in section 9 of this chapter) one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the airport development zone's special funds under section 9 of this chapter.

(c) After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value (as defined in section 9 of this chapter) to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the airport development zone's special funds under section 9 of this chapter.

SECTION 67. IC 16-22-14 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 14. Levy for Emergency Medical Services

Sec. 1. As used in this chapter, "qualified expenses" means expenses incurred by a county hospital to provide emergency medical services (as defined in IC 16-18-2-110).

Sec. 2. The governing board of a county hospital may request support from the county for qualified expenses, either by:

(1) appropriation from the county general fund; or

(2) a separate tax levy;

by filing with the county executive on or before August 1 a written budget of the amount estimated to be required to fund qualified expenses for the ensuing year.

Sec. 3. Subject to sections 4 and 5 of this chapter, a county may establish a separate property tax levy for a county hospital to compensate the county hospital for the county hospital's qualified expenses.

Sec. 4. The property tax rate imposed under this chapter may not exceed the lesser of the following:

(1) Six cents ($0.06) on each one hundred dollars ($100) of assessed valuation.

(2) The property tax rate that is necessary to generate tax revenues in an amount equal to the county hospital's qualified expenses in the ensuing year, as estimated in the governing body's budget request under section 2 of this chapter.

Sec. 5. Property taxes imposed under this chapter are subject to the county's levy limitations imposed under IC 6-1.1-18.5-3.

Sec. 6. The amount levied under this chapter is in addition to any other amount levied for a county hospital.

Sec. 7. An amount levied under this chapter:

(1) must be appropriated as other county funds are appropriated; and

(2) may be used only for qualified expenses.

SECTION 68. IC 20-44-3-2, AS ADDED BY HEA 1134-2006, SECTION 167, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. As used in this chapter, "levy excess" means that part of the property tax levy actually collected by a school corporation for taxes first due and payable during a particular calendar year that exceeds the school corporation's total levy, as approved by the department of local government finance

under IC 6-1.1-17, for those property taxes. **The term does not include delinquent ad valorem property taxes collected during a particular year that were assessed for an assessment date that precedes the assessment date for the current year in which the ad valorem property taxes are collected.**

SECTION 69. IC 20-46-6-5, AS ADDED BY HEA 1134-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006] Sec. 5. Subject to ~~IC 6-1.1-18-13~~ **IC 6-1.1-18-12** and IC 6-1.1-18.5-9.9, to provide for the fund, the governing body may, for each year in which a plan is in effect, impose a property tax rate that does not exceed forty-one and sixty-seven hundredths cents ($0.4167) on each one hundred dollars ($100) of assessed valuation of the school corporation. The actual rate imposed by the governing body must be advertised in the same manner as other property tax rates.

SECTION 70. IC 33-26-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~The office of~~ **Subject to IC 4-6-2-11, IC 4-6-5-3, and the written approval of** the attorney general, ~~shall represent~~ a township assessor, a county assessor, a county auditor, a member of a county property tax assessment board of appeals, or a county property tax assessment board of appeals that:

(1) made an original determination that is the subject of a judicial proceeding in the tax court; and

(2) is a defendant in a judicial proceeding in the tax court;

may elect to be represented in the judicial proceeding by an attorney selected and paid by the defendant, the township, or the county.

SECTION 71. IC 36-7-14-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 35. (a) In order to:

(1) undertake survey and planning activities under this chapter;

(2) undertake and carry out any redevelopment project, ~~or~~ urban renewal project, **or housing program;**

(3) pay principal and interest on any advances;

(4) pay or retire any bonds and interest on them; or

(5) refund loans previously made under this section;

the redevelopment commission may apply for and accept advances, short term and long term loans, grants, contributions, and any other form of financial assistance from the federal government, or from any of its agencies. The commission may also enter into and carry out contracts and agreements in connection with that financial assistance upon the terms and conditions that the commission considers reasonable and appropriate, as long as those terms and conditions are not inconsistent with the purposes of this chapter. The provisions of such a contract or agreement in regard to the handling, deposit, and application of project funds, as well as all other provisions, are valid and binding on the unit or its executive departments and officers, as well as the commission, notwithstanding any other provision of this chapter.

(b) The redevelopment commission may issue and sell bonds, notes, or warrants to the federal government to evidence short term or long term loans made under this section, without notice of sale being given or a public offering being made.

(c) Notwithstanding the provisions of this or any other chapter, bonds, notes, or warrants issued by the redevelopment commission under this section may:

(1) be in the amounts, form, or denomination;

(2) be either coupon or registered;

(3) carry conversion or other privileges;

(4) have a rank or priority;

(5) be of such description;

(6) be secured (subject to other provisions of this section) in such manner;

(7) bear interest at a rate or rates;

(8) be payable as to both principal and interest in a medium of payment, at a time or times (which may be upon demand) and at a place or places;

(9) be subject to terms of redemption (with or without premium);

(10) contain or be subject to any covenants, conditions, and provisions; and

(11) have any other characteristics;

that the commission considers reasonable and appropriate.

(d) Bonds, notes, or warrants issued under this section are not an indebtedness of the unit or taxing district within the meaning of any constitutional or statutory limitation of indebtedness. The bonds, notes, or warrants are not payable from or secured by a levy of taxes, but are payable only from and secured only by income, funds, and properties of the project becoming available to the redevelopment commission under this chapter, as the commission specifies in the resolution authorizing their issuance.

(e) Bonds, notes, or warrants issued under this section are exempt from taxation for all purposes.

(f) Bonds, notes, or warrants issued under this section must be executed by the appropriate officers of the unit in the name of the "City (or Town or County) of _____, Department of Redevelopment", and must be attested by the appropriate officers of the unit.

(g) Following the adoption of the resolution authorizing the issuance of bonds, notes, or warrants under this section, the redevelopment commission shall certify a copy of that resolution to the officers of the unit who have duties with respect to bonds, notes, or warrants of the unit. At the proper time, the commission shall deliver to the officers the unexecuted bonds, notes, or warrants prepared for execution in accordance with the resolution.

(h) All bonds, notes, or warrants issued under this section shall be sold by the officers of the unit who have duties with respect to the sale of bonds, notes, or warrants of the unit. If an officer whose signature appears on any bonds, notes, or warrants issued under this section leaves office before their delivery, the signature remains valid and sufficient for all purposes as if ~~he~~ **the officer** had remained in office until the delivery.

(i) If at any time during the life of a loan contract or agreement under this section the redevelopment commission can obtain loans for the purposes of this section from sources other than the federal government at interest rates not less favorable than provided in the loan contract or agreement, and if the loan contract or agreement so permits, the commission may do so and may pledge the loan contract and any rights under that contract as security for the repayment of the loans obtained from other sources. Any loan under this subsection may be evidenced by bonds, notes, or warrants issued and secured in the same manner as provided in this section for loans from the federal government. These bonds, notes, or warrants may be sold at either public or private sale, as the commission considers appropriate.

(j) Money obtained from the federal government or from other sources under this section, and money that is required by a contract or agreement under this section to be used for project expenditure purposes, repayment of survey and planning advances, or repayment of temporary or definitive loans, may be expended by the redevelopment commission without regard to any law pertaining to the making and approval of budgets, appropriations, and expenditures.

(k) Bonds, notes, or warrants issued under this section are declared to be issued for an essential public and governmental purpose.

SECTION 72. IC 36-7-14-39, AS AMENDED BY P.L.216-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 39. (a) As used in this section:

"Allocation area" means that part of a redevelopment project area to which an allocation provision of a declaratory resolution adopted under section 15 of this chapter refers for purposes of distribution and allocation of property taxes.

"Base assessed value" means the following:

(1) If an allocation provision is adopted after June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing an economic development area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(2) If an allocation provision is adopted after June 30, 1997, in

a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(3) If:

(A) an allocation provision adopted before June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area expires after June 30, 1997; and

(B) after June 30, 1997, a new allocation provision is included in an amendment to the declaratory resolution;

the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision adopted after June 30, 1997, as adjusted under subsection (h).

(4) Except as provided in subdivision (5), for all other allocation areas, the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h).

(5) If an allocation area established in an economic development area before July 1, 1995, is expanded after June 30, 1995, the definition in subdivision (1) applies to the expanded part of the area added after June 30, 1995.

(6) If an allocation area established in a redevelopment project area before July 1, 1997, is expanded after June 30, 1997, the definition in subdivision (2) applies to the expanded part of the area added after June 30, 1997.

Except as provided in section 39.3 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property. However, upon approval by a resolution of the redevelopment commission adopted before June 1, 1987, "property taxes" also includes taxes imposed under IC 6-1.1 on depreciable personal property. If a redevelopment commission adopted before June 1, 1987, a resolution to include within the definition of property taxes taxes imposed under IC 6-1.1 on depreciable personal property that has a useful life in excess of eight (8) years, the commission may by resolution determine the percentage of taxes imposed under IC 6-1.1 on all depreciable personal property that will be included within the definition of property taxes. However, the percentage included must not exceed twenty-five percent (25%) of the taxes imposed under IC 6-1.1 on all depreciable personal property.

(b) A declaratory resolution adopted under section 15 of this chapter on or before the allocation deadline determined under subsection (i) may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A declaratory resolution previously adopted may include an allocation provision by the amendment of that declaratory resolution on or before the allocation deadline determined under subsection (i) in accordance with the procedures required for its original adoption. A declaratory resolution or an amendment that establishes an allocation provision after June 30, 1995, must specify an expiration date for the allocation provision that may not be more than thirty (30) years after the date on which the allocation provision is established. However, if bonds or other obligations that were scheduled when issued to mature before the specified expiration date and that are payable only from allocated tax proceeds with respect to the allocation area remain outstanding as of the expiration date, the allocation provision does not expire until all of the bonds or other obligations are no longer outstanding. The allocation provision may apply to all or part of the redevelopment project area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivision (1) shall be allocated to the redevelopment district and, when collected, paid into an allocation fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds which are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 27 of this chapter.

(D) Pay the principal of and interest on bonds issued by the unit to pay for local public improvements in or serving that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 25.2 of this chapter.

(G) Reimburse the unit for expenditures made by it for local public improvements (which include buildings, parking facilities, and other items described in section 25.1(a) of this chapter) in or serving that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility in or serving that allocation area under any lease entered into under IC 36-1-10.

(I) Pay all or a part of a property tax replacement credit to taxpayers in an allocation area as determined by the redevelopment commission. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in IC 6-1.1-1-20) that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(i) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(ii) the STEP ONE sum.

STEP THREE: Multiply:

(i) the STEP TWO quotient; times

(ii) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that have been allocated during that year to an allocation fund under this section.

If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under section 39.5 of this chapter in the same year.

(J) Pay expenses incurred by the redevelopment commission for local public improvements that are in the allocation area or serving the allocation area. Public improvements include buildings, parking facilities, and other items described in section 25.1(a) of this chapter.

(K) Reimburse public and private entities for expenses

incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

The allocation fund may not be used for operating expenses of the commission.

(3) Except as provided in subsection (g), before July 15 of each year the commission shall do the following:

(A) Determine the amount, if any, by which the base assessed value when multiplied by the estimated tax rate of the allocation area will exceed the amount of assessed value needed to produce the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (2) plus the amount necessary for other purposes described in subdivision (2).

(B) Notify the county auditor of the amount, if any, of the amount of excess assessed value that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subdivision (1). The commission may not authorize an allocation of assessed value to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (2) or lessors under section 25.3 of this chapter.

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the declaratory resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(2).

(e) Notwithstanding any other law, each assessor shall, upon petition of the redevelopment commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes specified in subsection (b)(2) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund any amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. The amount sufficient for purposes specified in subsection (b)(2) for the year shall be determined based on the pro rata portion of such current property tax proceeds from the part of the enterprise zone that is within the allocation area as compared to all such current property tax proceeds derived from the allocation area. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund (based on the recommendations of the urban enterprise association) for programs in job training, job enrichment, and basic skill development that are designed to benefit residents and employers in the enterprise zone or other purposes specified in subsection (b)(2), except that where reference is made in subsection (b)(2) to allocation area it shall refer for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone. Those programs shall reserve at least one-half (1/2) of their enrollment in any session for residents of the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the redevelopment district under this section. **After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the redevelopment district under this section.** However, the ~~adjustment~~ **adjustments under this subsection** may not include the effect of property tax abatements under IC 6-1.1-12.1, and ~~the adjustment~~ **these adjustments** may not produce less property tax proceeds allocable to the redevelopment district under subsection (b)(2) than would otherwise have been received if the general reassessment **or annual adjustment** had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

(i) The allocation deadline referred to in subsection (b) is determined in the following manner:

(1) The initial allocation deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial allocation deadline and subsequent allocation deadlines are automatically extended in increments of five (5) years, so that allocation deadlines subsequent to the initial allocation deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an allocation deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of allocation deadlines under subdivision (2); and

(B) specifically designates a particular date as the final allocation deadline.

SECTION 73. IC 36-7-14-45 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 45. (a) The commission may establish a program for housing by resolution. The program, which may include any relevant elements the commission considers appropriate, may be adopted as part of a redevelopment plan or amendment to a redevelopment plan, and must establish an allocation area for purposes of sections 39 and 48 of this chapter for the accomplishment of the program. The program must be approved by the municipal legislative body or county executive as specified in section 17 of this chapter.**

(b) The notice and hearing provisions of sections 17 and 17.5 of this chapter, including notice under section 17(c) of this chapter to a taxing unit that is wholly or partly located within an allocation area, apply to the resolution adopted under subsection (a). Judicial review of the resolution may be made under section 18 of this chapter.

(c) Before formal submission of any housing program to the commission, the department of redevelopment:

(1) shall consult with persons interested in or affected by the proposed program;

(2) shall provide the affected neighborhood associations, residents, and township assessors with an adequate opportunity to participate in an advisory role in planning, implementing, and evaluating the proposed program; and

(3) shall hold public meetings in the affected neighborhood to obtain the views of neighborhood associations and residents.

SECTION 74. IC 36-7-14-46 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 46. (a) Except as provided in subsection (b), all the rights, powers, privileges, and immunities that may be exercised by the commission in blighted, deteriorated, or deteriorating areas may be exercised by the commission in implementing its program for housing, including the following:**

(1) The special tax levied in accordance with section 27 of this chapter may be used to accomplish the housing program.

(2) Bonds may be issued under this chapter to accomplish the housing program, but only one (1) issue of bonds may be issued and payable from increments in any allocation area except for refunding bonds or bonds issued in an amount necessary to complete a housing program for which bonds were previously issued.

(3) Leases may be entered into under this chapter to accomplish the housing program.

(4) The tax exemptions set forth in section 37 of this chapter are applicable.

(5) Property taxes may be allocated under section 39 of this chapter.

(b) A commission may not exercise the power of eminent domain in implementing its program for housing.

SECTION 75. IC 36-7-14-47 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 47. The commission must make the following findings in the resolution adopting a housing program under section 45 of this chapter:**

(1) Not more than twenty-five (25) acres of the area included in the allocation area has been annexed during the preceding five (5) years.

(2) No area within the allocation area has been annexed within the preceding five (5) years over a remonstrance of a majority of the owners of land within the annexed area.

(3) The program cannot be accomplished by regulatory processes or by the ordinary operation of private enterprise because of:

(A) the lack of public improvements;

(B) the existence of improvements or conditions that lower the value of the land below that of nearby land; or

(C) other similar conditions.

(4) The public health and welfare will be benefited by accomplishment of the program.

(5) The accomplishment of the program will be of public utility and benefit as measured by:

(A) the provision of adequate housing for low and moderate income persons;

(B) an increase in the property tax base; or

(C) other similar public benefits.

(6) At least one-third (1/3) of the parcels in the allocation area established by the program are vacant.

(7) At least seventy-five percent (75%) of the allocation area is used for residential purposes or is planned to be used for residential purposes.

(8) At least one-third (1/3) of the residential units in the allocation area were constructed before 1941.

(9) At least one-third (1/3) of the parcels in the allocation area have at least one (1) of the following characteristics:

(A) The dwelling unit on the parcel is not permanently occupied.

(B) The parcel is the subject of a governmental order, issued under a statute or an ordinance, requiring the correction of a housing code violation or unsafe building condition.

(C) Two (2) or more property tax payments on the parcel are delinquent.

(D) The parcel is owned by local, state, or federal government.

(10) The total area within the county or municipality that is included in any allocation area established for a housing program under section 45 of this chapter does not exceed one hundred fifty (150) acres.

SECTION 76. IC 36-7-14-48 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 48. (a) Notwithstanding section 39(a) of this chapter, with respect to the allocation and distribution of property taxes for the accomplishment of a program adopted under section 45 of this chapter, "base assessed value" means the net assessed value of all of the property, other than personal property, as finally determined for the assessment date immediately preceding the effective date of the allocation provision, as adjusted under section 39(h) of this chapter.**

(b) The allocation fund established under section 39(b) of this chapter for the allocation area for a program adopted under section 45 of this chapter may be used only for purposes related to the accomplishment of the program, including the following:

(1) The construction, rehabilitation, or repair of residential units within the allocation area.

(2) The construction, reconstruction, or repair of any infrastructure (including streets, sidewalks, and sewers) within or serving the allocation area.

(3) The acquisition of real property and interests in real property within the allocation area.

(4) The demolition of real property within the allocation area.

(5) The provision of financial assistance to enable individuals and families to purchase or lease residential units within the allocation area. However, financial assistance may be provided only to those individuals and families whose income is at or below the county's median income for individuals and families, respectively.

(6) The provision of financial assistance to neighborhood development corporations to permit them to provide financial assistance for the purposes described in subdivision (5).

(7) Providing each taxpayer in the allocation area a credit for property tax replacement as determined under subsections (c) and (d). However, the commission may provide this credit only if the municipal legislative body (in the case of a redevelopment commission established by a municipality) or the county executive (in the case of a redevelopment commission established by a county) establishes the credit by ordinance adopted in the year before the year in which the credit is provided.

(c) The maximum credit that may be provided under subsection (b)(7) to a taxpayer in a taxing district that contains all or part of an allocation area established for a program adopted under section 45 of this chapter shall be determined as follows:

STEP ONE: Determine that part of the sum of the amounts described in IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) through IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4(a)(1) that is attributable to the taxing district; by

(B) the amount determined under STEP ONE.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district allocated to the allocation fund, including the amount that would have been allocated but for the credit.

(d) The commission may determine to grant to taxpayers in an allocation area from its allocation fund a credit under this section, as calculated under subsection (c). Except as provided in subsection (g), one-half (1/2) of the credit shall be applied to each

installment of taxes (as defined in IC 6-1.1-21-2) that under IC 6-1.1-22-9 are due and payable on May 10 and November 10 of a year. The commission must provide for the credit annually by a resolution and must find in the resolution the following:

(1) That the money to be collected and deposited in the allocation fund, based upon historical collection rates, after granting the credit will equal the amounts payable for contractual obligations from the fund, plus ten percent (10%) of those amounts.

(2) If bonds payable from the fund are outstanding, that there is a debt service reserve for the bonds that at least equals the amount of the credit to be granted.

(3) If bonds of a lessor under section 25.2 of this chapter or under IC 36-1-10 are outstanding and if lease rentals are payable from the fund, that there is a debt service reserve for those bonds that at least equals the amount of the credit to be granted.

If the tax increment is insufficient to grant the credit in full, the commission may grant the credit in part, prorated among all taxpayers.

(e) Notwithstanding section 39(b) of this chapter, the allocation fund established under section 39(b) of this chapter for the allocation area for a program adopted under section 45 of this chapter may only be used to do one (1) or more of the following:

(1) Accomplish one (1) or more of the actions set forth in section 39(b)(2)(A) through 39(b)(2)(H) and 39(b)(2)(J) of this chapter for property that is residential in nature.

(2) Reimburse the county or municipality for expenditures made by the county or municipality in order to accomplish the housing program in that allocation area.

The allocation fund may not be used for operating expenses of the commission.

(f) Notwithstanding section 39(b) of this chapter, the commission shall, relative to the allocation fund established under section 39(b) of this chapter for an allocation area for a program adopted under section 45 of this chapter, do the following before July 15 of each year:

(1) Determine the amount, if any, by which property taxes payable to the allocation fund in the following year will exceed the amount of property taxes necessary:

(A) to make, when due, principal and interest payments on bonds described in section 39(b)(2) of this chapter;

(B) to pay the amount necessary for other purposes described in section 39(b)(2) of this chapter; and

(C) to reimburse the county or municipality for anticipated expenditures described in subsection (e)(2).

(2) Notify the county auditor of the amount, if any, of excess property taxes that the commission has determined may be paid to the respective taxing units in the manner prescribed in section 39(b)(1) of this chapter.

(g) This subsection applies to an allocation area only to the extent that the net assessed value of property that is assessed as residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22-9.5, each taxpayer subject to those installments in an allocation area is entitled to an additional credit under subsection (d) for the taxes (as defined in IC 6-1.1-21-2) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2).

SECTION 77. IC 36-7-15.1-26, AS AMENDED BY P.L.216-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 26. (a) As used in this section:

"Allocation area" means that part of a redevelopment project area to which an allocation provision of a resolution adopted under section 8 of this chapter refers for purposes of distribution and allocation of property taxes.

"Base assessed value" means the following:

(1) If an allocation provision is adopted after June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing an economic development area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(2) If an allocation provision is adopted after June 30, 1997, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(3) If:

(A) an allocation provision adopted before June 30, 1995, in a declaratory resolution or an amendment to a declaratory resolution establishing a redevelopment project area expires after June 30, 1997; and

(B) after June 30, 1997, a new allocation provision is included in an amendment to the declaratory resolution;

the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision adopted after June 30, 1997, as adjusted under subsection (h).

(4) Except as provided in subdivision (5), for all other allocation areas, the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h).

(5) If an allocation area established in an economic development area before July 1, 1995, is expanded after June 30, 1995, the definition in subdivision (1) applies to the expanded part of the area added after June 30, 1995.

(6) If an allocation area established in a redevelopment project area before July 1, 1997, is expanded after June 30, 1997, the definition in subdivision (2) applies to the expanded part of the area added after June 30, 1997.

Except as provided in section 26.2 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property. However, upon approval by a resolution of the redevelopment commission adopted before June 1, 1987, "property taxes" also includes taxes imposed under IC 6-1.1 on depreciable personal property. If a redevelopment commission adopted before June 1, 1987, a resolution to include within the definition of property taxes taxes imposed under IC 6-1.1 on depreciable personal property that has a useful life in excess of eight (8) years, the commission may by resolution determine the percentage of taxes imposed under IC 6-1.1 on all depreciable personal property that will be included within the definition of property taxes. However, the percentage included must not exceed twenty-five percent (25%) of the taxes imposed under IC 6-1.1 on all depreciable personal property.

(b) A resolution adopted under section 8 of this chapter on or before the allocation deadline determined under subsection (i) may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A resolution previously adopted may include an allocation provision by the amendment of that resolution on or before the allocation deadline determined under subsection (i) in accordance with the procedures required for its original adoption. A declaratory resolution or an amendment that establishes an allocation provision after June 30, 1995, must specify an expiration date for the allocation provision that may not be more than thirty (30) years after the date on which the allocation provision is established. However, if bonds or other obligations that were scheduled when issued to mature before the specified expiration date and that are payable only from allocated

tax proceeds with respect to the allocation area remain outstanding as of the expiration date, the allocation provision does not expire until all of the bonds or other obligations are no longer outstanding. The allocation provision may apply to all or part of the redevelopment project area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivision (1) shall be allocated to the redevelopment district and, when collected, paid into a special fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds that are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 19 of this chapter.

(D) Pay the principal of and interest on bonds issued by the consolidated city to pay for local public improvements in that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 17.1 of this chapter.

(G) Reimburse the consolidated city for expenditures for local public improvements (which include buildings, parking facilities, and other items set forth in section 17 of this chapter) in that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility in that allocation area under any lease entered into under IC 36-1-10.

(I) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

The special fund may not be used for operating expenses of the commission.

(3) Before July 15 of each year, the commission shall do the following:

(A) Determine the amount, if any, by which the base assessed value when multiplied by the estimated tax rate of the allocated area will exceed the amount of assessed value needed to provide the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (2) plus the amount necessary for other purposes described in subdivision (2) and subsection (g).

(B) Notify the county auditor of the amount, if any, of excess assessed value that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The commission may not authorize an allocation to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (2).

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(2).

(e) Notwithstanding any other law, each assessor shall, upon petition of the commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes specified in subsection (b)(2) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund the amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund, based on the recommendations of the urban enterprise association, for one (1) or more of the following purposes:

(1) To pay for programs in job training, job enrichment, and basic skill development designed to benefit residents and employers in the enterprise zone. The programs must reserve at least one-half (1/2) of the enrollment in any session for residents of the enterprise zone.

(2) To make loans and grants for the purpose of stimulating business activity in the enterprise zone or providing employment for enterprise zone residents in the enterprise zone. These loans and grants may be made to the following:

(A) Businesses operating in the enterprise zone.

(B) Businesses that will move their operations to the enterprise zone if such a loan or grant is made.

(3) To provide funds to carry out other purposes specified in subsection (b)(2). However, where reference is made in subsection (b)(2) to the allocation area, the reference refers for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and

procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the redevelopment district under this section. **After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the redevelopment district under this section.** However, the ~~adjustment~~ **adjustments under this subsection** may not include the effect of property tax abatements under IC 6-1.1-12.1, and ~~the adjustment~~ **these adjustments** may not produce less property tax proceeds allocable to the redevelopment district under subsection (b)(2) than would otherwise have been received if the general reassessment **or annual adjustment** had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

(i) The allocation deadline referred to in subsection (b) is determined in the following manner:

(1) The initial allocation deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial allocation deadline and subsequent allocation deadlines are automatically extended in increments of five (5) years, so that allocation deadlines subsequent to the initial allocation deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an allocation deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of allocation deadlines under subdivision (2); and

(B) specifically designates a particular date as the final allocation deadline.

SECTION 78. IC 36-7-15.1-53, AS AMENDED BY P.L.216-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 53. (a) As used in this section:

"Allocation area" means that part of a redevelopment project area to which an allocation provision of a resolution adopted under section 40 of this chapter refers for purposes of distribution and allocation of property taxes.

"Base assessed value" means:

(1) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(2) to the extent that it is not included in subdivision (1), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

Except as provided in section 55 of this chapter, "property taxes" means taxes imposed under IC 6-1.1 on real property.

(b) A resolution adopted under section 40 of this chapter on or before the allocation deadline determined under subsection (i) may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A resolution previously adopted may include an allocation provision by the amendment of that resolution on or before the allocation deadline determined under subsection (i) in accordance with the procedures required for its original adoption. A declaratory resolution or an amendment that establishes an allocation provision must be approved by resolution of the legislative body of the excluded city and must specify an expiration date for the allocation provision that may not be more than thirty (30) years after the date on which the allocation provision is established. However, if bonds or other obligations that were scheduled when issued to mature before the specified expiration date and that are payable only from allocated tax proceeds with respect to the allocation area remain outstanding as of the expiration date, the allocation provision does not expire until all of the bonds or other obligations are no longer outstanding. The allocation provision may apply to all or part of the redevelopment project area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivision (1) shall be allocated to the redevelopment district and, when collected, paid into a special fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following:

(A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds that are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.

(C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 50 of this chapter.

(D) Pay the principal of and interest on bonds issued by the excluded city to pay for local public improvements in that allocation area.

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 46 of this chapter.

(G) Reimburse the excluded city for expenditures for local public improvements (which include buildings, park facilities, and other items set forth in section 45 of this chapter) in that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility in that allocation area under any lease entered into under IC 36-1-10.

(I) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made.

The special fund may not be used for operating expenses of the commission.

(3) Before July 15 of each year, the commission shall do the following:

(A) Determine the amount, if any, by which property taxes payable to the allocation fund in the following year will exceed the amount of assessed value needed to provide the property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (2) plus the amount necessary for other purposes described in subdivision (2) and subsection (g).

(B) Notify the county auditor of the amount, if any, of excess assessed value that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The commission may not authorize an allocation to the respective taxing units under this subdivision if to do so would endanger the interests of the holders of bonds described in subdivision (2).

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by any taxing unit after the effective date of the allocation provision of the resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the redevelopment district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the redevelopment district for payment as set forth in subsection (b)(2).

(e) Notwithstanding any other law, each assessor shall, upon petition of the commission, reassess the taxable property situated upon or in, or added to, the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located, is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes specified in subsection (b)(2) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund the amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. A unit that has no obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) in the fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone. The unit that creates the special zone fund shall use the fund, based on the recommendations of the urban enterprise association, for one (1) or more of the following purposes:

(1) To pay for programs in job training, job enrichment, and basic skill development designed to benefit residents and employers in the enterprise zone. The programs must reserve at least one-half (1/2) of the enrollment in any session for residents of the enterprise zone.

(2) To make loans and grants for the purpose of stimulating business activity in the enterprise zone or providing employment for enterprise zone residents in an enterprise zone. These loans and grants may be made to the following:

(A) Businesses operating in the enterprise zone.

(B) Businesses that will move their operations to the enterprise zone if such a loan or grant is made.

(3) To provide funds to carry out other purposes specified in subsection (b)(2). However, where reference is made in subsection (b)(2) to the allocation area, the reference refers, for purposes of payments from the special zone fund, only to that part of the allocation area that is also located in the enterprise zone.

(h) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the redevelopment district under this section. **After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the redevelopment district under this section.** However, the ~~adjustment~~ **adjustments under this subsection** may not include the effect of property tax abatements under IC 6-1.1-12.1, and ~~the adjustment~~ **these adjustments** may not produce less property tax proceeds allocable to the redevelopment district under subsection (b)(2) than would otherwise have been received if the general reassessment **or annual adjustment** had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

(i) The allocation deadline referred to in subsection (b) is determined in the following manner:

(1) The initial allocation deadline is December 31, 2011.

(2) Subject to subdivision (3), the initial allocation deadline and subsequent allocation deadlines are automatically extended in increments of five (5) years, so that allocation deadlines subsequent to the initial allocation deadline fall on December 31, 2016, and December 31 of each fifth year thereafter.

(3) At least one (1) year before the date of an allocation deadline determined under subdivision (2), the general assembly may enact a law that:

(A) terminates the automatic extension of allocation deadlines under subdivision (2); and

(B) specifically designates a particular date as the final allocation deadline.

SECTION 79. IC 36-7-30-25, AS AMENDED BY P.L.4-2005, SECTION 141, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 25. (a) The following definitions apply throughout this section:

(1) "Allocation area" means that part of a military base reuse area to which an allocation provision of a declaratory resolution adopted under section 10 of this chapter refers for purposes of distribution and allocation of property taxes.

(2) "Base assessed value" means:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the adoption date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A) or (C), the net assessed value of any and all parcels or classes of parcels identified as part of the base assessed value in the declaratory resolution or an amendment thereto, as finally determined for any subsequent assessment date; plus

(C) to the extent that it is not included in clause (A) or (B), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

Clause (C) applies only to allocation areas established in a military reuse area after June 30, 1997, and to the part of an allocation area that was established before June 30, 1997, and that is added to an existing allocation area after June 30, 1997.

(3) "Property taxes" means taxes imposed under IC 6-1.1 on real property.

(b) A declaratory resolution adopted under section 10 of this chapter before the date set forth in IC 36-7-14-39(b) pertaining to declaratory resolutions adopted under IC 36-7-14-15 may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A declaratory resolution previously adopted may include an allocation provision by the amendment of that declaratory resolution in accordance with the procedures set forth in section 13 of this chapter. The allocation provision may apply to all or part of the military base reuse area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivision (1) shall be allocated to the military base reuse district and, when collected, paid into an allocation fund for that allocation area that may be used by the military base reuse district and only to do one (1) or more of the following:

(A) Pay the principal of and interest and redemption premium on any obligations incurred by the military base reuse district or any other entity for the purpose of financing or refinancing military base reuse activities in or directly serving or benefiting that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area or from other revenues of the reuse authority, including lease rental revenues.

(C) Make payments on leases payable solely or in part from allocated tax proceeds in that allocation area.

(D) Reimburse any other governmental body for expenditures made for local public improvements (or structures) in or directly serving or benefiting that allocation area.

(E) Pay all or a part of a property tax replacement credit to taxpayers in an allocation area as determined by the reuse authority. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in IC 6-1.1-1-20) that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(i) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(ii) the STEP ONE sum.

STEP THREE: Multiply:

(i) the STEP TWO quotient; times

(ii) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that have been allocated during that year to an allocation fund under this section.

If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under section 27 of this chapter in the same year.

(F) Pay expenses incurred by the reuse authority for local public improvements or structures that were in the allocation area or directly serving or benefiting the allocation area.

(G) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made not more than three (3) years after the date on which the investments that are the basis for the increment financing are made.

The allocation fund may not be used for operating expenses of the reuse authority.

(3) Except as provided in subsection (g), before July 15 of each year the reuse authority shall do the following:

(A) Determine the amount, if any, by which property taxes payable to the allocation fund in the following year will exceed the amount of property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (2) plus the amount necessary for other purposes described in subdivision (2).

(B) Notify the county auditor of the amount, if any, of the amount of excess property taxes that the reuse authority has determined may be paid to the respective taxing units in the manner prescribed in subdivision (1). The reuse authority may not authorize a payment to the respective taxing units under this subdivision if to do so would endanger the interest of the holders of bonds described in subdivision (2) or lessors under section 19 of this chapter. Property taxes received by a taxing unit under this subdivision are eligible for the property tax replacement credit provided under IC 6-1.1-21.

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by a taxing unit after the effective date of the allocation provision of the declaratory resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the military base reuse district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the military base reuse district for payment as set forth in subsection (b)(2).

(e) Notwithstanding any other law, each assessor shall, upon petition of the reuse authority, reassess the taxable property situated upon or in or added to the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and the making of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes specified in subsection (b)(2) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund any amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. The amount sufficient for purposes specified in subsection (b)(2) for the year shall be determined based on the pro rata part of such current property tax proceeds from the part of the enterprise zone that is within the allocation area as compared to all such current property tax proceeds derived from the allocation area. A unit that does not have obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) that are derived from property in the enterprise zone in the fund. The unit that creates the special zone fund shall use the fund (based on the recommendations of the urban enterprise association) for programs in job training, job enrichment, and basic skill development that are designed to benefit residents and employers in the enterprise zone or other purposes specified in subsection (b)(2), except that where reference is made in subsection (b)(2) to allocation area it shall refer for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone. The programs shall reserve at least one-half (1/2) of their enrollment in any session for

residents of the enterprise zone.

(h) After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the military base reuse district under this section. **After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the military base reuse district under this section.** However, the ~~adjustment~~ **adjustments under this subsection** may not include the effect of property tax abatements under IC 6-1.1-12.1, and ~~the adjustment~~ **these adjustments** may not produce less property tax proceeds allocable to the military base reuse district under subsection (b)(2) than would otherwise have been received if the general reassessment **or annual adjustment** had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

SECTION 80. IC 36-7-30.5-30, AS ADDED BY P.L.203-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 30. (a) The following definitions apply throughout this section:

(1) "Allocation area" means that part of a military base development area to which an allocation provision of a declaratory resolution adopted under section 16 of this chapter refers for purposes of distribution and allocation of property taxes.

(2) "Base assessed value" means:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the adoption date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A) or (C), the net assessed value of any and all parcels or classes of parcels identified as part of the base assessed value in the declaratory resolution or an amendment to the declaratory resolution, as finally determined for any subsequent assessment date; plus

(C) to the extent that it is not included in clause (A) or (B), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

(3) "Property taxes" means taxes imposed under IC 6-1.1 on real property.

(b) A declaratory resolution adopted under section 16 of this chapter before the date set forth in IC 36-7-14-39(b) pertaining to declaratory resolutions adopted under IC 36-7-14-15 may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A declaratory resolution previously adopted may include an allocation provision by the amendment of that declaratory resolution in accordance with the procedures set forth in section 18 of this chapter. The allocation provision may apply to all or part of the military base development area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivision (1) shall be allocated to the development authority and, when collected, paid into an allocation fund for that allocation area that may be used by the development authority and only to do one (1) or more of the following:

(A) Pay the principal of and interest and redemption premium on any obligations incurred by the development authority or any other entity for the purpose of financing or refinancing military base development or reuse activities in or directly serving or benefitting that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area or from other revenues of the development authority, including lease rental revenues.

(C) Make payments on leases payable solely or in part from allocated tax proceeds in that allocation area.

(D) Reimburse any other governmental body for expenditures made for local public improvements (or structures) in or directly serving or benefitting that allocation area.

(E) Pay all or a part of a property tax replacement credit to taxpayers in an allocation area as determined by the development authority. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in IC 6-1.1-1-20) that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(i) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(ii) the STEP ONE sum.

STEP THREE: Multiply:

(i) the STEP TWO quotient; by

(ii) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that have been allocated during that year to an allocation fund under this section.

If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under section 32 of this chapter in the same year.

(F) Pay expenses incurred by the development authority for local public improvements or structures that were in the allocation area or directly serving or benefitting the allocation area.

(G) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made not more than three (3) years after the date on which the investments that are the basis for the increment financing are made.

The allocation fund may not be used for operating expenses of the development authority.

(3) Except as provided in subsection (g), before July 15 of each year the development authority shall do the following:

(A) Determine the amount, if any, by which property taxes payable to the allocation fund in the following year will exceed the amount of property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (2) plus the amount necessary for other purposes described in subdivision (2).

(B) Notify the appropriate county auditor of the amount, if any, of the amount of excess property taxes that the development authority has determined may be paid to the

respective taxing units in the manner prescribed in subdivision (1). The development authority may not authorize a payment to the respective taxing units under this subdivision if to do so would endanger the interest of the holders of bonds described in subdivision (2) or lessors under section 24 of this chapter. Property taxes received by a taxing unit under this subdivision are eligible for the property tax replacement credit provided under IC 6-1.1-21.

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by a taxing unit after the effective date of the allocation provision of the declaratory resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the military base development district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the military base development district for payment as set forth in subsection (b)(2).

(e) Notwithstanding any other law, each assessor shall, upon petition of the development authority, reassess the taxable property situated upon or in or added to the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and the making of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the development authority shall create funds as specified in this subsection. A development authority that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes specified in subsection (b)(2) and a special zone fund. The development authority shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund any amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. The amount sufficient for purposes specified in subsection (b)(2) for the year shall be determined based on the pro rata part of such current property tax proceeds from the part of the enterprise zone that is within the allocation area as compared to all such current property tax proceeds derived from the allocation area. A development authority that does not have obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) that are derived from property in the enterprise zone in the fund. The development authority that creates the special zone fund shall use the fund (based on the recommendations of the urban enterprise association) for programs in job training, job enrichment, and basic skill development that are designed to benefit residents and employers in the enterprise zone or for other purposes specified in subsection (b)(2), except that where reference is made in subsection (b)(2) to an allocation area it shall refer for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone. The programs shall reserve at least one-half (1/2) of their enrollment in any session for residents of the enterprise zone.

(h) After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the military base development district under this section. **After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the military base development district under this section.** However, the ~~adjustment~~ **adjustments under this subsection** may not include the effect of property tax abatements under IC 6-1.1-12.1, and ~~the adjustment~~ **these adjustments** may not produce less property tax proceeds allocable to the military base development district under subsection (b)(2) than would otherwise have been received if the general reassessment **or annual adjustment** had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

SECTION 81. IC 36-7-32-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 19. (a) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that the state board of accounts and department of local government finance consider appropriate for the implementation of an allocation area under this chapter.

(b) After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the certified technology park fund under section 17 of this chapter. **After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the certified technology park fund under section 17 of this chapter.**

SECTION 82. [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: **IC 6-1.1-4-12, as amended by this act, applies only to assessment dates after December 31, 2005.**

SECTION 83. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 6-1.1-12.1 apply throughout this SECTION.**

(b) As used in this SECTION, "department" refers to the department of local government finance.

(c) As used in this SECTION, "taxpayer" means a person:

(1) who operates a grey iron foundry located in Grant County;

(2) who applied in 2001 for property tax deductions under IC 6-1.1-12.1 for new manufacturing equipment located in an economic revitalization area; and

(3) whose applications described in subdivision (2) were denied.

(d) References to the Indiana Code in this SECTION refer to the Indiana Code in effect on March 1, 2001, unless otherwise stated.

(e) Notwithstanding any other law, a taxpayer who complies with the requirements of this SECTION is entitled to the property tax deduction for new manufacturing equipment in the amounts and for the number of years provided under IC 6-1.1-12.1-4.5, as determined by the department under subsection (h).

(f) The taxpayer shall provide the department with copies of the taxpayer's:

(1) statement of benefits; and

(2) applications for deductions from assessed value;

for new manufacturing equipment placed in service in an economic revitalization area that the taxpayer filed in 2001.

(g) If there are any deficiencies in the taxpayer's filings described in subsection (f), the department shall assist the taxpayer in completing the information necessary to determine:

(1) the assessed value of the new manufacturing equipment; and

(2) the number of years over which the taxpayer is entitled to the deduction under this SECTION.

(h) The department shall determine:

(1) the amount of the assessed value of the new manufacturing equipment;

(2) the number of years over which the taxpayer is entitled to the deduction under this SECTION; and

(3) the percentages used to compute the taxpayer's deductions;

in accordance with IC 6-1.1-12.1-4.5(d) and IC 6-1.1-12.1-4.5(e) as if the taxpayer's applications for deductions had been approved in 2001.

(i) Notwithstanding IC 6-1.1-26 (as in effect on January 1,

2006), when the department has completed the department's determinations under subsection (h), the department shall issue an order to the county auditor of the county in which the economic revitalization area is located:

(1) describing the department's determinations under subsection (h); and

(2) requiring the county auditor to accept the taxpayer's refund claims as if the taxpayer's deduction applications had been approved in 2001.

The department shall provide the taxpayer with a copy of the order issued under this subsection.

(j) Notwithstanding IC 6-1.1-26 (as in effect January 1, 2006), the taxpayer may file refund claims for property taxes paid in previous years that are affected by the department's order issued under subsection (i). The taxpayer must attach a copy of the order issued under subsection (i) to the taxpayer's refund claim.

(k) Notwithstanding IC 6-1.1-26 (as in effect January 1, 2006), the county auditor shall pay the refund claims of the taxpayer filed under subsection (j) if the refund claims are fully consistent with the department's order issued under subsection (i).

SECTION 84. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies to property that:**

(1) is used for a fraternity for students attending Butler University;

(2) is owned by a nonprofit corporation that was, before the effective date of this SECTION, determined by the auditor of the county in which the property is located to be eligible to receive a property tax exemption under IC 6-1.1-10-16 or IC 6-1.1-10-24; and

(3) is not eligible for the property tax exemption under IC 6-1.1-10-16 or IC 6-1.1-10-24 for property taxes first due and payable in 2001, 2002, 2003, and 2004 because the nonprofit corporation failed to timely file an application under IC 6-1.1-11-3.5.

(b) Notwithstanding IC 6-1.1-11-1 and IC 6-1.1-11-3.5, the auditor of the county in which the property described in subsection (a) is located shall:

(1) waive the noncompliance with the timely filing requirement for the exemption application in question; and

(2) grant the appropriate exemption.

(c) A property tax exemption granted under this SECTION applies to:

(1) property taxes first due and payable in 2001;

(2) property taxes first due and payable in 2002;

(3) property taxes first due and payable in 2003; and

(4) property taxes first due and payable in 2004.

(d) This SECTION expires July 1, 2007.

SECTION 85. P.L.228-2005, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE] SECTION 35. (a) The definitions in IC 6-1.1-1 apply throughout this SECTION.

(b) As used in this SECTION, "taxpayer" means a nonprofit corporation that is an owner of land and improvements:

(1) that were:

(A) owned and occupied by the taxpayer during the period preceding the assessment date in 1999 and continuing through the date that this SECTION is effective; and

(B) used to prepare and create a soccer facility to provide youths with the opportunity to play supervised and organized soccer against other youths;

(2) for which the property tax liability imposed for property taxes first due and payable in 2000, 2001, 2002, 2003, and 2004 exceeded ~~thirty-three~~ **thirty** thousand dollars ~~($33,000)~~ **($30,000),** in total, which has been paid by the taxpayer;

(3) that would have qualified for an exemption under IC 6-1.1-10 from property taxes first due and payable in 2000, 2001, 2002, 2003, and 2004 if the taxpayer had complied with the filing requirements for the exemption in a timely manner; and

(4) that have been granted an exemption under IC 6-1.1-10 from property taxes first due and payable in 2005.

(c) Land and improvements described in subsection (b) are exempt under IC 6-1.1-10-16 from property taxes first due and payable in 2003 and 2004, notwithstanding that the taxpayer failed to make a timely application for the exemption for those years.

(d) The taxpayer may file claims with the county auditor for a refund for the amounts paid toward property taxes on land and improvements described in subsection (b) that were billed to the taxpayer for property taxes first due and payable in 2003 and 2004. The claims must be filed as set forth in IC 6-1.1-26-1(1) through IC 6-1.1-26-1(3). The claims must present sufficient facts for the county auditor to determine whether the claimant is a person that meets the qualifications described in subsection (b) and the amount that should be refunded to the taxpayer.

(e) Upon receiving a claim filed under this SECTION, the county auditor shall determine whether the claim is correct. If the county auditor determines that the claim is correct, the county auditor shall submit the claim under IC 6-1.1-26-4 to the county board of commissioners for review. The only grounds for disallowing the claim under IC 6-1.1-26-4 are that the claimant is not a person that meets the qualifications described in subsection (b) or that the amount claimed is not the amount due to the taxpayer. If the claim is allowed, the county auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount due the claimant under this SECTION. The amount of the refund must equal the amount of the claim allowed. Notwithstanding IC 6-1.1-26-5, no interest is payable on the refund.

(f) This SECTION shall be liberally construed in favor of the taxpayer to give effect to the purposes of this SECTION.

~~(f)~~ **(g)** This SECTION expires December 31, 2007.

SECTION 86. [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)] **(a) IC 6-1.1-12.1-1 and IC 6-1.1-40-4, both as amended by this act, apply only to:**

(1) new manufacturing equipment, new research and development equipment, new logistical distribution equipment, and new information technology equipment installed and initially used in an economic revitalization area; or

(2) new manufacturing equipment installed and initially used in a maritime opportunity district;

after December 31, 2005.

(b) It is the intent of the general assembly that the amendment of IC 6-1.1-12.1-1 and IC 6-1.1-40-4 by this act be interpreted to expand the equipment that is eligible for a deduction under IC 6-1.1-12.1 or IC 6-1.1-40 to include equipment that is ineligible for a deduction under IC 6-1.1-12.1 or IC 6-1.1-40 solely because the equipment was used in Indiana by a person other than a deduction applicant (as defined in IC 6-1.1-12.1-1(15), as added by this act) before being installed by the deduction applicant in an economic revitalization area or a maritime opportunity district.

SECTION 87. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "eligible district" means a fire protection district established under IC 36-8-11:**

(1) that expanded its territory after 1998; and

(2) for which the quotient of:

(A) the taxable assessed value of all tangible property in the district for the assessment date (as defined in IC 6-1.1-1-2) in 2004; divided by

(B) subject to subsection (b), the taxable assessed value of all tangible property in the district for the assessment date (as defined in IC 6-1.1-1-2) in 1999;

is at least one and one-half (1.5).

(b) To account for the change in the definition of "assessed value" reflected in IC 6-1.1-1-3(a)(1) and IC 6-1.1-1-3(a)(2), the taxable assessed value to be used for purposes of subsection (a)(2)(B) is the product of:

(1) the actual taxable assessed value; multiplied by

(2) three (3).

(c) An eligible district may, before September 20, 2006, appeal to the department of local government finance for relief from the levy limitations imposed by IC 6-1.1-18.5 for property taxes first due and payable in 2007. In the appeal the district must:

(1) state that it will be unable to carry out the governmental functions committed to it by law unless the appeal is approved; and

(2) present evidence that it is an eligible district.

(d) The maximum increase in an eligible district's levy allowed under this SECTION is four hundred twenty-five thousand dollars ($425,000).

(e) The department of local government finance shall process the appeal in the same manner that the department processes appeals under IC 6-1.1-18.5-12.

(f) For purposes of computing an eligible district's ad valorem property tax levy for taxes first due and payable in 2008, the district's maximum permissible ad valorem property tax levy for property taxes first due and payable in 2007 under STEP ONE of IC 6-1.1-18.5-3(a) or STEP ONE of IC 6-1.1-18.5-3(b) includes the amount of any increase in the district's levy approved under this SECTION for property taxes first due and payable in 2007.

(g) This SECTION expires January 1, 2009.

SECTION 88. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies to a taxpayer that:**

(1) is an entity that was established for the purpose of providing youths with the opportunity to play supervised and organized baseball against other youths;

(2) before 2002 qualified as a nonprofit corporation under Indiana law;

(3) during 2002, 2003, 2004, and 2005 did not maintain its status as a nonprofit corporation under Indiana law due to the failure to make certain filings;

(4) regained its status as a nonprofit corporation beginning in 2006; and

(5) was assessed by the department of state revenue for delinquent state gross retail taxes owed for 2002, 2003, 2004, and 2005 and has paid those assessments.

(b) A taxpayer described in subsection (a) is entitled to a refund of the payments described in subsection (a)(5) to the extent that the state gross retail taxes for which the assessments were made would not have been owed if the taxpayer had maintained its status as a nonprofit corporation during the years for which the assessments were made.

(c) A taxpayer that is entitled to a refund under this SECTION shall claim the refund under IC 6-8.1-9 in the manner prescribed by the department of state revenue.

(d) This SECTION expires July 1, 2008.

SECTION 89. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "board" refers to the county property tax assessment board of appeals.**

(b) This SECTION applies to an organization that:

(1) is located in a county containing a consolidated city;

(2) is dedicated to nurturing and celebration of the arts and culture from an African-American perspective and provides a forum for arts and cultural programming directed toward cross-cultural appreciation;

(3) filed an application under IC 6-1.1-11 for exemption from property taxes on the organization's property first due and payable in 2005, which was denied by the board because the organization failed to attend the board's hearing on the exemption application; and

(4) filed an application under IC 6-1.1-11 for exemption from property taxes on the organization's property first due and payable in 2006, which was approved by the board.

(c) An organization described in subsection (b) is entitled to exemption from property taxes on the organization's property first due and payable in 2005 in the same percentage approved by the board with respect to the organization's exemption application described in subsection (b)(4).

(d) The organization entitled to an exemption under subsection (c) may file a claim under IC 6-1.1-26-1 before July 1, 2006, with the county auditor for a refund for any payment of property taxes first due and payable in 2005, including any paid interest and penalties, with respect to the exempt property.

(e) Upon receiving a claim for a refund filed under subsection (d), 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.

(f) This SECTION expires January 1, 2007.

SECTION 90. [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)] **(a) This SECTION applies:**

(1) to an assessment date occurring after December 31, 2004, and before January 1, 2006; and

(2) for property taxes first due and payable after December 31, 2005, and before January 1, 2007.

(b) Notwithstanding any other law requiring a property tax exemption to be claimed on or in an application accompanying a personal property tax return, a claim or an application that was filed on or with a personal property tax return not more than thirty (30) days after the filing date for the personal property tax return, regardless of whether an extension of the filing date was granted under IC 6-1.1-3-7, is considered to have been timely filed.

(c) A claim or an application filed in the manner described in subsection (b) is subject to all other requirements of IC 6-1.1-11 or any other statute requiring the claim or application to be filed on or with a personal property tax return.

(d) A county auditor shall grant an exemption claimed on or filed with a personal property tax return filed in the time permitted under subsection (b) upon the county auditor's determination that:

(1) the taxpayer's claim or application satisfies all other applicable requirements; and

(2) the taxpayer's property is otherwise eligible for the claimed exemption.

An exemption granted under this subsection shall be made in the manner prescribed by subsection (e).

(e) A county auditor shall apply an exemption granted under this SECTION by:

(1) adjusting the second installment of the taxpayer's property taxes that are first due and payable in 2006; and

(2) if necessary, refunding any property taxes paid in the taxpayer's first installment of property taxes in 2006 that are attributable to the exempt property.

A taxpayer is not required to apply for any refund due under this SECTION. The auditor shall, without an appropriation being required, issue a warrant to the taxpayer payable from the county general fund for the amount of the refund, if any, due the taxpayer. No interest is payable on the refund.

(f) This SECTION expires January 1, 2007.

SECTION 91. [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)] **(a) As used in this SECTION:**

(1) "department" refers to the department of local government finance; and

(2) "maximum levy" means the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5-3.

(b) This SECTION applies only in a county having a population of more than thirty-nine thousand six hundred (39,600) but less than forty thousand (40,000).

(c) Notwithstanding IC 6-1.1-18.5-3, the maximum levy for property taxes first due and payable in 2007 for:

(1) a public library that:

(A) is located in a county described in subsection (b); and

(B) has a maximum levy for property taxes first due and payable in 2006 that is more than three hundred thousand dollars ($300,000);

is five hundred twenty-four thousand five hundred dollars ($524,500); and

(2) a county contractual library located in a county described in subsection (b) is equal to three hundred eighty six thousand hundred dollars ($386,000).

(d) This SECTION expires January 1, 2008.

SECTION 92. [EFFECTIVE UPON PASSAGE] **IC 6-1.1-8.5-8, as amended by this act, applies to the assessment date in each year in which IC 6-1.1-8.5 applied or applies in a qualifying county.**

SECTION 93. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies notwithstanding IC 6-1.1-8 or 50 IAC 5.1.**

(b) As used in this SECTION, "amended return" means a return:

(1) that was filed after July 31, 2005; and

(2) that the department accepts as a taxpayer's final amended return for the assessment date.

(c) As used in this SECTION, "assessment date" means the March 1, 2005, assessment date.

(d) As used in this SECTION, "department" refers to the department of local government finance.

(e) As used in this SECTION, "return" means the statement of value and description of property required under IC 6-1.1-8-19 that is filed on the Annual Report (U.D. Form 45), as prescribed by the department, and is filed with the department on or before July 31, 2005.

(f) As used in this SECTION, "taxpayer" means a taxpayer that meets the requirements of subsection (g).

(g) This SECTION applies to any taxpayer that:

(1) is a public utility that provides water utility services in Indiana and is subject to taxation under IC 6-1.1-8;

(2) is required to file a return under IC 6-1.1-8-19;

(3) filed a return with the department with respect to the assessment date; and

(4) filed an amended return with the department with respect to the assessment date.

(h) Before June 1, 2006, the department shall review the assessed value identified on line 47 of the taxpayer's amended return as the assessed value of all the taxpayer's distributable property as of the assessment date. If the department determines that this assessed value:

(1) is correct; and

(2) is less than the assessed value identified in the taxpayer's return as the assessed value of all the taxpayer's distributable property as of the assessment date;

the taxpayer is entitled to a credit under this SECTION.

(i) Before July 1, 2006, the department shall determine the amount of the credit to which a taxpayer is entitled under this SECTION and notify the county auditor of that amount. For purposes of this subsection, the department shall assume that the taxpayer will pay the full amount of the taxpayer's installment or installments of property taxes first due and payable after June 30, 2006, and before January 1, 2007.

(j) The amount of the credit under this SECTION:

(1) is the remainder of:

(A) the amount of property taxes the taxpayer pays with respect to its distributable property for taxes first due and payable in 2006; minus

(B) the amount of property taxes for which the taxpayer would have been liable with respect to its distributable property for taxes first due and payable in 2006 if those property taxes had been based on the assessed value identified on line 47 of the taxpayer's amended return instead of the assessed value identified in the taxpayer's return; and

(2) applies proportionately to the taxpayer's installments of property taxes first due and payable in 2007.

(k) Interest does not apply in the determination of the amount of the credit under this SECTION.

(l) The county auditor shall adjust the assessed value used in setting property tax rates for each political subdivision in the county for property taxes first due and payable in 2007 to eliminate levy reductions that would otherwise result from the application of credits under this SECTION.

(m) In setting property tax rates for property taxes first due and payable in 2007 for each political subdivision in the county, the department shall:

(1) use the assessed value as adjusted by the county auditor under subsection (l); or

(2) further adjust the assessed value for the following purposes:

(A) To ensure the elimination of levy reductions that would otherwise result from the application of credits under this SECTION.

(B) To account for a failure of the taxpayer to pay property taxes in the amount assumed under subsection (i).

SECTION 94. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies to a township that:**

(1) has a population of more than seven thousand twenty-five (7,025) but less than seven thousand five hundred (7,500); and

(2) is located in a county that has a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000).

(b) A township described in subsection (a) may appeal to the department of local government finance for permission to increase its levy in excess of the limitations established under IC 6-1.1-18.5-3 for 2006 ad valorem property taxes first due and payable in 2007. The department may:

(1) refer the appeal to the local government tax control board for a recommendation; and

(2) approve the appeal if the department finds that the township needs the increase to pay the costs of providing emergency medical services by paramedics in the township.

(c) This SECTION expires January 1, 2008.

SECTION 95. [EFFECTIVE UPON PASSAGE] **(a) The department of local government finance shall:**

(1) develop a recommendation for an amendment to IC 6-1.1-18.5, as amended by this act, to adjust maximum permissible levies under that chapter for property taxes first due and payable after 2007 to effect for those years the type of adjustment that results for property taxes first due and payable in 2007 from the amendment by this act of the definition of "maximum permissible ad valorem property tax levy for the preceding calendar year" in IC 6-1.1-18.5-1; and

(2) report its recommendation under subdivision (1) before November 1, 2006, to the legislative council in an electronic format under IC 5-14-6.

(b) This SECTION expires January 1, 2007.

SECTION 96. [EFFECTIVE UPON PASSAGE] **(a) The department of local government finance may adopt temporary rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to implement IC 6-1.1-12.4, as added by this act. A temporary rule adopted under this SECTION expires on the earliest of the following:**

(1) The date that the department of local government finance adopts another temporary rule under this SECTION that repeals, amends, or supersedes the previously adopted temporary rule.

(2) The date that the department of local government finance adopts a permanent rule under IC 4-22-2 that repeals, amends, or supersedes the previously adopted temporary rule.

(3) The date specified in the temporary rule.

(4) July 1, 2007.

(b) This SECTION expires July 1, 2007.

SECTION 97. [EFFECTIVE UPON PASSAGE] **The following, all as added or amended by this act, apply only to property taxes first due and payable after December 31, 2006:**

(1) IC 6-1.1-8-28.
(2) IC 6-1.1-8-29.
(3) IC 6-1.1-8-30.
(4) IC 6-1.1-11-3.
(5) IC 6-1.1-12-2.
(6) IC 6-1.1-12-4.
(7) IC 6-1.1-12-10.1.
(8) IC 6-1.1-12-12.
(9) IC 6-1.1-12-15.
(10) IC 6-1.1-12-17.
(11) IC 6-1.1-12-17.5.
(12) IC 6-1.1-12-17.8.
(13) IC 6-1.1-12-20.
(14) IC 6-1.1-12-24.
(15) IC 6-1.1-12-30.
(16) IC 6-1.1-12-35.5.
(17) IC 6-1.1-12-38.
(18) IC 6-1.1-12.1-4.5.
(19) IC 6-1.1-12.4-3.
(20) IC 6-1.1-18.5-1.
(21) IC 6-1.1-18.5-13.
(22) IC 6-1.1-20.9-3.
(23) IC 6-1.1-40-10.
(24) IC 6-1.1-45-9.

SECTION 98. [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)] **IC 6-1.1-4-12, as amended by this act, applies only to assessment dates after December 31, 2005.**

SECTION 99. **An emergency is declared for this act.**

(Reference is to ESB 260 as reprinted February 22, 2006.)

KENLEY	ESPICH
SIMPSON	WELCH
Senate Conferees	House Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1327–1; filed March 14, 2006, at 4:25 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 1327 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 government finance.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-1-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 15, 2006 (RETROACTIVE)]: Sec. 1. (a) **The following definitions apply throughout this section:**

(1) "Agreement" means any agreement that includes terms, representations, or provisions relating to:

(A) credit enhancement of, or rate covenants supporting, any bonds, notes, evidences of indebtedness, leases, swap agreements, or other written obligations described in subsection (b);

(B) any indenture or provision regarding any indenture relating to any bonds, notes, evidences of indebtedness, leases, swap agreements, or other written obligations described in subsection (b);

(C) payment of any bonds, notes, evidences of indebtedness, leases, swap agreements, or other written obligations described in subsection (b) in the event of a termination of the agreement; or

(D) public works, capital improvements, or economic development projects.

(2) "Leasing body" means a not-for-profit corporation, limited purpose corporation, or authority that has leased land and a building or buildings to an entity named in subsection (b) other than another leasing body.

(3) "Swap agreement" has the meaning set forth in IC 8-9.5-9-4.

(b) All bonds, notes, evidences of indebtedness, **swap agreements, agreements,** leases, or other written obligations issued **or executed** by or in the name of any:

(1) state agency, county, township, city, incorporated town, school corporation, state educational institution, state supported institution of higher learning, political subdivision, joint agency created under IC 8-1-2.2, leasing body, **separate body corporate and politic,** or any other political, municipal, public or quasi-public corporation; ~~or in the name of any~~

(2) special assessment or taxing district; or ~~in the name of any~~

(3) board, commission, authority, or authorized body of any such entity; and

any pledge, dedication or designation of revenues, conveyance, or mortgage securing these bonds, notes, evidences of indebtedness, leases, **swap agreements, agreements,** or other written obligations are hereby legalized and declared valid if these bonds, notes, evidences of indebtedness, leases, **swap agreements, agreements,** or other written obligations have been executed before March 15, ~~2000.~~ **2006.** All **governance, organizational, or other** proceedings had and actions taken under which the bonds, notes, evidences of indebtedness, leases, **swap agreements, agreements,** or other written obligations were issued **or executed** or the pledge, dedication or designation of revenues, conveyance, or mortgage was granted, are hereby fully legalized and declared valid.

(c) All contracts for the purchase of electric power and energy or utility capacity or service:

(1) entered into by a joint agency created under IC 8-1-2.2; and ~~its members;~~

(2) used **by the members of the joint agency** for the purpose of securing payment of principal and interest on bonds, notes, evidences of indebtedness, leases, or other written obligations issued by or in the name of such joint agency;

are hereby legalized and declared valid if entered into before March 15, ~~2000.~~ **2006.** All proceedings held and actions taken under which contracts for the purchase of electric power and energy or utility capacity or service were executed or entered into are hereby fully legalized and declared valid.

(d) All interlocal cooperation agreements entered into by political subdivisions or governmental entities under IC 36-1-7 are hereby legalized and declared valid if entered into before March 15, ~~2000.~~ **2006.** All proceedings held and actions taken under which interlocal cooperation agreements were executed or entered into are hereby fully legalized and validated.

SECTION 2. IC 6-2.5-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) In determining the amount of state gross retail and use taxes which a retail merchant must remit under section 7 of this chapter, the retail merchant shall, subject to subsections (c) and (d), deduct from the retail merchant's gross retail income from retail transactions made during a particular reporting period, an amount equal to the retail merchant's receivables which:

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

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

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

(b) If a retail merchant deducts a receivable under subsection (a) and subsequently collects all or part of that receivable, then the retail merchant shall, subject to subsection (d)(6), include the amount collected as part of the retail merchant's gross retail income from retail transactions for the particular reporting period in which the retail merchant makes the collection.

(c) This subsection applies only to retail transactions occurring after June 30, ~~2004.~~ **2007. As used in this subsection, "affiliated group" means any combination of the following:**

(1) An affiliated group within the meaning provided in Section 1504 of the Internal Revenue Code (except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using fifty percent (50%) instead of eighty percent (80%)) or a relationship described in Section 267(b)(11) of the Internal Revenue Code.

(2) Two (2) or more partnerships (as defined in IC 6-3-1-19), including limited liability companies and limited liability partnerships, that have the same degree of mutual ownership as an affiliated group described in subdivision (1), as determined under the rules adopted by the department.

The right to a deduction under this section is **not** assignable ~~only if the retail merchant that paid the state gross retail or use tax liability assigned the right to the deduction in writing.~~ **to an individual or entity that is not part of the same affiliated group as the assignor.**

(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 3. IC 6-3-1-3.5, AS AMENDED BY P.L.246-2005, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

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

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars ($1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars ($1,000).

(4) Subtract one thousand dollars ($1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) **for taxable years beginning after December 31, 2004,** 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,~~ **(as effective January 1, 2004);** and

(B) five hundred dollars ($500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars ($40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars ($2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars ($2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross

income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

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

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

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

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

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

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

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

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

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

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

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

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

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

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

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

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

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

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

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

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

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

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

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

SECTION 4. IC 6-3-1-11, AS AMENDED BY P.L.246-2005, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 11. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States as amended and in effect on January 1, ~~2005.~~ **2006.**

(b) Whenever the Internal Revenue Code is mentioned in this article, the particular provisions that are referred to, together with all the other provisions of the Internal Revenue Code in effect on January 1, ~~2005,~~ **2006,** that pertain to the provisions specifically mentioned, shall be regarded as incorporated in this article by reference and have the same force and effect as though fully set forth in this article. To the extent the provisions apply to this article, regulations adopted under Section 7805(a) of the Internal Revenue Code and in effect on January 1, ~~2005,~~ **2006,** shall be regarded as rules adopted by the department under this article, unless the department adopts specific rules that supersede the regulation.

(c) An amendment to the Internal Revenue Code made by an act passed by Congress before January 1, ~~2005,~~ **2006,** that is effective for any taxable year that began before January 1, ~~2005,~~ **2006,** and that affects:

(1) individual adjusted gross income (as defined in Section 62 of the Internal Revenue Code);

(2) corporate taxable income (as defined in Section 63 of the Internal Revenue Code);

(3) trust and estate taxable income (as defined in Section 641(b) of the Internal Revenue Code);

(4) life insurance company taxable income (as defined in Section 801(b) of the Internal Revenue Code);

(5) mutual insurance company taxable income (as defined in Section 821(b) of the Internal Revenue Code); or

(6) taxable income (as defined in Section 832 of the Internal Revenue Code);

is also effective for that same taxable year for purposes of determining adjusted gross income under section 3.5 of this chapter.

SECTION 5. IC 6-3.5-1.1-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.5. (a) This section applies only to a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000).

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

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

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

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

(1) shall be paid to the county treasurer;

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

(3) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5.

SECTION 6. IC 6-3.5-6-18, AS AMENDED BY P.L.207-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS[[EFFECTIVE UPON PASSAGE]: Sec. 18. (a) The revenue a county auditor receives under this chapter shall be used to:

(1) replace the amount, if any, of property tax revenue lost due to the allowance of an increased homestead credit within the county;

(2) fund the operation of a public communications system and computer facilities district as provided in an election, if any, made by the county fiscal body under IC 36-8-15-19(b);

(3) fund the operation of a public transportation corporation as provided in an election, if any, made by the county fiscal body under IC 36-9-4-42;

(4) make payments permitted under IC 36-7-15.1-17.5;

(5) make payments permitted under subsection (i); ~~and~~

(6) make distributions of distributive shares to the civil taxing units of a county; **and**

(7) make the distributions permitted under section 29 of this chapter.

(b) The county auditor shall retain from the payments of the county's certified distribution, an amount equal to the revenue lost, if any, due to the increase of the homestead credit within the county. This money shall be distributed to the civil taxing units and school corporations of the county as though they were property tax collections and in such a manner that no civil taxing unit or school corporation shall suffer a net revenue loss due to the allowance of an increased homestead credit.

(c) The county auditor shall retain:

(1) the amount, if any, specified by the county fiscal body for a particular calendar year under subsection (i), IC 36-7-15.1-17.5, IC 36-8-15-19(b), and IC 36-9-4-42 from the county's certified distribution for that same calendar year; **and**

(2) the amount of an additional tax rate imposed under section 29 of this chapter.

The county auditor shall distribute amounts retained under this subsection to the county.

(d) All certified distribution revenues that are not retained and distributed under subsections (b) and (c) shall be distributed to the civil taxing units of the county as distributive shares.

(e) The amount of distributive shares that each civil taxing unit in a county is entitled to receive during a month equals the product of the following:

(1) The amount of revenue that is to be distributed as distributive shares during that month; multiplied by

(2) A fraction. The numerator of the fraction equals the allocation amount for the civil taxing unit for the calendar year in which the month falls. The denominator of the fraction equals the sum of the allocation amounts of all the civil taxing units of the county for the calendar year in which the month falls.

(f) The department of local government finance shall provide each county auditor with the fractional amount of distributive shares that each civil taxing unit in the auditor's county is entitled to receive monthly under this section.

(g) Notwithstanding subsection (e), if a civil taxing unit of an adopting county does not impose a property tax levy that is first due and payable in a calendar year in which distributive shares are being distributed under this section, that civil taxing unit is entitled to receive a part of the revenue to be distributed as distributive shares under this section within the county. The fractional amount such a civil taxing unit is entitled to receive each month during that calendar year equals the product of the following:

(1) The amount to be distributed as distributive shares during that month; multiplied by

(2) A fraction. The numerator of the fraction equals the budget of that civil taxing unit for that calendar year. The denominator of the fraction equals the aggregate budgets of all civil taxing units of that county for that calendar year.

(h) If for a calendar year a civil taxing unit is allocated a part of a county's distributive shares by subsection (g), then the formula used in subsection (e) to determine all other civil taxing units' distributive shares shall be changed each month for that same year by reducing the amount to be distributed as distributive shares under subsection (e) by the amount of distributive shares allocated under subsection (g) for that same month. The department of local government finance shall make any adjustments required by this subsection and provide them to the appropriate county auditors.

(i) Notwithstanding any other law, a county fiscal body may pledge revenues received under this chapter to the payment of bonds or lease rentals to finance a qualified economic development tax project under IC 36-7-27 in that county or in any other county if the county fiscal body determines that the project will promote significant opportunities for the gainful employment or retention of employment of the county's residents.

SECTION 7. IC 6-3.5-6-29 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 29. (a) This section applies only to Scott County. Scott County is a county in which:**

(1) maintaining low property tax rates is essential to economic development; and

(2) the use of additional county option income tax revenues as provided in this section, rather than the use of property taxes, to fund:

(A) the financing, construction, acquisition, improvement, renovation, equipping, operation, or maintenance of jail facilities; and

(B) the repayment of bonds issued or leases entered into for the purposes described in clause (A), except operation or maintenance;

promotes the purpose of maintaining low property tax rates.

(b) The county fiscal body may impose the county option income tax on the adjusted gross income of resident county taxpayers at a rate, in addition to the rates permitted by sections 8 and 9 of this chapter, not to exceed twenty-five hundredths percent (0.25%). Section 8(e) of this chapter applies to the application of the additional rate to nonresident taxpayers.

(c) To impose the county option income tax as provided in this section, the county fiscal body must adopt an ordinance finding and determining that additional revenues from the county option income tax are needed in the county to fund:

(1) the financing, construction, acquisition, improvement, renovation, equipping, operation, or maintenance of jail facilities; and

(2) the repayment of bonds issued or leases entered into for the purposes described in subdivision (1), except operation or maintenance.

(d) If the county fiscal body makes a determination under subsection (c), the county fiscal body may adopt an additional tax rate under subsection (b). Subject to the limitations in subsection (b), the county fiscal body may amend an ordinance adopted under this section to increase, decrease, or rescind the additional tax rate imposed under this section. As soon as practicable after the adoption of an ordinance under this section, the county fiscal body shall send a certified copy of the ordinance to the county auditor, the department of local government finance, and the department. An ordinance adopted under this section before June 1, 2006, or April 1 in a subsequent year applies to the imposition of county income taxes after June 30 in that year. An ordinance adopted under this section after May 31, 2006, or March 31 of a subsequent year initially applies to the imposition of county option income taxes after June 30 of the immediately following year.

(e) If the county imposes an additional tax rate under this section, the county treasurer shall establish a county jail revenue fund to be used only for the purposes described in this section. County option income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before making a certified distribution under section 18 of this chapter.

(f) County option income tax revenues derived from an additional tax rate imposed under this section:

(1) may be used only for the purposes described in this section;

(2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and

(3) may be pledged for the repayment of bonds issued or leases entered into to fund the purposes described in subsection (c)(1), except operation or maintenance.

(g) If the county imposes an additional tax rate under this section, the department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of the county to provide for an increased distribution of taxes in the immediately following calendar year after the county adopts the increased tax rate and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in section 17(a)(1) through 17(a)(2) of this chapter in the manner provided in section 17(c) of this chapter.

SECTION 8. IC 6-3.5-7-5, AS AMENDED BY P.L.214-2005, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (c), the county economic development income tax may be imposed on the adjusted gross income of county taxpayers. The entity that may impose the tax is:

(1) the county income tax council (as defined in IC 6-3.5-6-1) if the county option income tax is in effect on January 1 of the year the county economic development income tax is imposed;

(2) the county council if the county adjusted gross income tax is in effect on January 1 of the year the county economic development tax is imposed; or

(3) the county income tax council or the county council, whichever acts first, for a county not covered by subdivision (1) or (2).

To impose the county economic development income tax, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax.

(b) Except as provided in subsections (c), (g), (k), (p), and (r) the county economic development income tax may be imposed at a rate

of:

(1) one-tenth percent (0.1%);
(2) two-tenths percent (0.2%);
(3) twenty-five hundredths percent (0.25%);
(4) three-tenths percent (0.3%);
(5) thirty-five hundredths percent (0.35%);
(6) four-tenths percent (0.4%);
(7) forty-five hundredths percent (0.45%); or
(8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h), (i), (j), (k), (l), (m), (n), (o), (p), or (s), the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g), (p), (r), ~~or~~ (t), **or (u),** the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose, increase, decrease, or rescind the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance to impose the tax must substantially state the following:

"The _____ County _____ imposes the county economic development income tax on the county taxpayers of _____ County. The county economic development income tax is imposed at a rate of _____ percent (____%) on the county taxpayers of the county. This tax takes effect July 1 of this year.".

(e) Any ordinance adopted under this chapter takes effect July 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this chapter and shall, not more than ten (10) days after the vote, send a certified copy of the results to the commissioner of the department by certified mail.

(g) This subsection applies to a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000). Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of:
(A) fifteen-hundredths percent (0.15%);
(B) two-tenths percent (0.2%); or
(C) twenty-five hundredths percent (0.25%); and
(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

if the county income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.

(h) For a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and thirty-five hundredths percent (1.35%) if the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(i) For a county having a population of more than thirteen thousand five hundred (13,500) but less than fourteen thousand (14,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%).

(j) For a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred (71,400), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(k) This subsection applies to a county having a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-seven thousand five hundred (27,500). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and
(2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(l) For a county having a population of more than twenty-nine thousand (29,000) but less than thirty thousand (30,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(m) For:

(1) a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000); or
(2) a county having a population of more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900);

except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(n) For a county having a population of more than six thousand (6,000) but less than eight thousand (8,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(o) This subsection applies to a county having a population of more than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and
(2) the sum of the county economic development income tax rate and:
(A) the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%); or
(B) the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 24 of this chapter.

(p) In addition:

(1) the county economic development income tax may be imposed at a rate that exceeds by not more than twenty-five hundredths percent (0.25%) the maximum rate that would otherwise apply under this section; and
(2) the:
(A) county economic development income tax; and
(B) county option income tax or county adjusted gross income tax;

may be imposed at combined rates that exceed by not more than twenty-five hundredths percent (0.25%) the maximum combined rates that would otherwise apply under this section.

However, the additional rate imposed under this subsection may not exceed the amount necessary to mitigate the increased ad valorem property taxes on homesteads (as defined in IC 6-1.1-20.9-1) resulting from the deduction of the assessed value of inventory in the county under IC 6-1.1-12-41 or IC 6-1.1-12-42.

(q) If the county economic development income tax is imposed as authorized under subsection (p) at a rate that exceeds the maximum rate that would otherwise apply under this section, the certified distribution must be used for the purpose provided in section 25(e) or 26 of this chapter to the extent that the certified distribution results from the difference between:

(1) the actual county economic development tax rate; and

(2) the maximum rate that would otherwise apply under this section.

(r) This subsection applies only to a county described in section 27 of this chapter. Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 27 of this chapter.

(s) Except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%) if the county has imposed the county adjusted gross income tax under IC 6-3.5-1.1-3.3.

(t) This subsection applies to Howard County. Except as provided in subsection (p), the sum of the county economic development income tax rate and the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%).

(u) This subsection applies to Scott County. Except as provided in subsection (p), the sum of the county economic development income tax rate and the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%).

SECTION 9. IC 6-9-24-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) If the tax is imposed by a municipality under this chapter, the tax terminates January 1, ~~2007.~~ **2012.**

(b) This chapter expires July 1, ~~2007.~~ **2012.**

SECTION 10. IC 6-9-27-9.5, AS ADDED BY P.L.214-2005, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9.5. (a) A city shall use money in the fund established under section 8.5 of this chapter for only the following:

(1) Renovating the city hall.

(2) Constructing new police or fire stations, or both.

(3) Improving the city's sanitary sewers or wastewater treatment facilities, or both.

(4) Improving the city's storm water drainage systems.

(5) Other projects involving the city's water system or protecting the city's well fields, as determined by the city fiscal body.

Money in the fund may not be used for the operating costs of a project. In addition, the city may not initiate a project under this chapter after December 31, ~~2010~~ **2015.**

(b) The fiscal body of the city may pledge money in the fund to pay bonds issued, loans obtained, and lease payments or other obligations incurred by or on behalf of the city or a special taxing district in the city to provide the projects described in subsection (a).

(c) Subsection (b) applies only to bonds, loans, lease payments, or obligations that are issued, obtained, or incurred after the date on which the tax is imposed under section 3 of this chapter.

(d) A pledge under subsection (b) is enforceable under IC 5-1-14-4.

SECTION 11. IC 21-2-21-1.8, AS ADDED BY P.L.214-2005, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.8. (a) For purposes of this section, "retirement or severance liability" means the payments anticipated to be required to be made to employees of a school corporation upon or after termination of the employment of the employees by the school corporation under an existing or previous employment agreement.

(b) This section applies to each school corporation that:

(1) did not issue bonds under IC 20-5-4-1.7 before its repeal; or

(2) issued bonds under IC 20-5-4-1.7:

(A) before April 14, 2003; **or**

(B) after April 13, 2003, if an order approving the issuance of the bonds was issued by the department of local government finance before April 14, 2003.

(c) In addition to the purposes set forth in section 1 of this chapter, a school corporation described in subsection (b) may issue bonds to implement solutions to contractual retirement or severance liability. The issuance of bonds for this purpose is subject to the following conditions:

(1) The school corporation may issue bonds under this section only one (1) time.

(2) ~~The~~ **A** school corporation **described in subsection (b)(1) or (b)(2)(A)** must issue the bonds before July 1, 2006. **A school corporation described in subsection (b)(2)(B) must file a petition with the department of local government finance under IC 6-1.1-19-8 requesting approval to incur bond indebtedness under this section before July 1, 2006.**

(3) The solution to which the bonds are contributing must be reasonably expected to reduce the school corporation's unfunded contractual liability for retirement or severance payments as it existed on June 30, 2001.

(4) The amount of the bonds that may be issued for the purpose described in this section may not exceed:

(A) two percent (2%) of the true tax value of property in the school corporation, for a school corporation that did not issue bonds under IC 20-5-4-1.7 before its repeal; or

(B) the remainder of:

(i) two percent (2%) of the true tax value of property in the school corporation as of the date that the school corporation issued bonds under IC 20-5-4-1.7; minus

(ii) the amount of bonds that the school corporation issued under IC 20-5-4-1.7;

for a school corporation that issued bonds under IC 20-5-4-1.7 ~~before April 14, 2003.~~ **as described in subsection (b)(2).**

(5) Each year that a debt service levy is needed under this section, the school corporation shall reduce the total property tax levy for the school corporation's transportation, school bus replacement, capital projects, or art association and historical society funds in an amount equal to the property tax levy needed for the debt service under this section. The property tax rate for each of these funds shall be reduced each year until the bonds are retired.

(6) The school corporation shall establish a separate debt service fund for repayment of the bonds issued under this section.

(d) Bonds issued for the purpose described in this section shall be issued in the same manner as other bonds of the school corporation.

(e) Bonds issued under this section are not subject to the petition and remonstrance process under IC 6-1.1-20 or to the limitations contained in IC 36-1-15.

SECTION 12. [EFFECTIVE JULY 1, 2006] **If the general assembly amends IC 6-2.5-6-9 in more than one (1) act, the laws shall be read together and interpreted to implement the policies enacted in each act.**

SECTION 13. **An emergency is declared for this act.**

(Reference is to EHB 1327 as printed February 15, 2006.)

ESPICH	KENLEY
CRAWFORD	SIMPSON
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT

EHB 1172–1; filed March 14, 2006, at 5:22 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 1172 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 16-34-2-1.1, AS AMENDED BY P.L.36-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1.1. (a) An abortion shall not be performed except with the voluntary and informed consent of the

pregnant woman upon whom the abortion is to be performed. Except in the case of a medical emergency, consent to an abortion is voluntary and informed only if the following conditions are met:

(1) At least eighteen (18) hours before the abortion and in the presence of the pregnant woman, the physician who is to perform the abortion, the referring physician or a physician assistant (as defined in IC 25-27.5-2-10), an advanced practice nurse (as defined in IC 25-23-1-1(b)), or a midwife (as defined in IC 34-18-2-19) to whom the responsibility has been delegated by the physician who is to perform the abortion or the referring physician has orally informed the pregnant woman of the following:

(A) The name of the physician performing the abortion.

(B) The nature of the proposed procedure or treatment.

(C) The risks of and alternatives to the procedure or treatment.

(D) The probable gestational age of the fetus, including an offer to provide:

(i) a picture or drawing of a fetus;

(ii) the dimensions of a fetus; and

(iii) relevant information on the potential survival of an unborn fetus;

at this stage of development.

(E) The medical risks associated with carrying the fetus to term.

(F) The availability of fetal ultrasound imaging and auscultation of fetal heart tone services to enable the pregnant woman to view the image and hear the heartbeat of the fetus and how to obtain access to these services.

(G) The fetus might feel pain.

(2) At least eighteen (18) hours before the abortion, the pregnant woman will be orally informed of the following:

(A) That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care from the county office of family and children.

(B) That the father of the unborn fetus is legally required to assist in the support of the child. In the case of rape, the information required under this clause may be omitted.

~~(C) That adoption alternatives are available and that adoptive parents may legally pay the costs of prenatal care, childbirth, and neonatal care~~.

(3) At least eighteen (18) hours before the abortion, the pregnant woman will be informed in writing of the following:

(A) That adoption alternatives are available, that there are many couples who are willing and waiting to adopt a child, and that adoptive parents may legally pay the costs of prenatal care, childbirth, and neonatal care.

(B) That there are physical risks to the woman in having an abortion, both during the abortion procedure and after.

(C) That human physical life begins when a human ovum is fertilized by a human sperm.

~~(3)~~ **(4)** The pregnant woman certifies in writing, before the abortion is performed, that the information required by subdivisions (1) ~~and (2)~~ **through (3)** has been provided.

(b) Before an abortion is performed, the pregnant woman may, upon the pregnant woman's request, view the fetal ultrasound imaging and hear the auscultation of the fetal heart tone if the fetal heart tone is audible.

(Reference is to EHB 1172 as printed February 24, 2006.)

T. HARRIS	DROZDA
WOODRUFF	CRAYCRAFT
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT

EHB 1329–1; filed March 14, 2006, at 5:32 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 1329 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 health and human services.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 12-15-12-19, AS AMENDED BY P.L.48-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 19. (a) This section applies to an individual who is a Medicaid recipient.

(b) Subject to subsection (c), the office shall develop the following programs regarding individuals described in subsection (a):

(1) A disease management program for recipients with any of the following chronic diseases:

(A) Asthma.

(B) Diabetes.

(C) Congestive heart failure or coronary heart disease.

(D) Hypertension.

(E) Kidney disease.

(2) A case management program for recipients described in subsection (a) who are at high risk of chronic disease, that is based on a combination of cost measures, clinical measures, and health outcomes identified and developed by the office with input and guidance from the state department of health and other experts in health care case management or disease management programs.

(c) The office shall implement:

(1) a pilot program for at least two (2) of the diseases listed in subsection (b) not later than July 1, 2003; and

(2) a statewide chronic disease program as soon as practicable after the office has done the following:

(A) Evaluated a pilot program described in subdivision (1).

(B) Made any necessary changes in the program based on the evaluation performed under clause (A).

(d) The office shall develop and implement a program required under this section in cooperation with the state department of health and shall use the following persons to the extent possible:

(1) Community health centers.

(2) Federally qualified health centers (as defined in 42 U.S.C. 1396d(l)(2)(B)).

(3) Rural health clinics (as defined in 42 U.S.C. 1396d(l)(1)).

(4) Local health departments.

(5) Hospitals.

(6) Public and private third party payers.

(e) The office may contract with an outside vendor or vendors to assist in the development and implementation of the programs required under this section.

(f) The office and the state department of health shall provide the select joint commission on Medicaid oversight established by IC 2-5-26-3 with an evaluation and recommendations on the costs, benefits, and health outcomes of the pilot programs required under this section. The evaluations required under this subsection must be provided not more than twelve (12) months after the implementation date of the pilot programs.

(g) The office and the state department of health shall report to the select joint commission on Medicaid oversight established by IC 2-5-26-3 not later than November 1 of each year regarding the programs developed under this section.

(h) The disease management program services for a recipient diagnosed with diabetes or hypertension must include education for the recipient on kidney disease and the benefits of having evaluations and treatment for chronic kidney disease according to accepted practice guidelines.

SECTION 2. IC 16-28-11-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 5. (a) This section does not apply to the Indiana Veterans' Home.**

(b) A health facility licensed under IC 16-28 as a comprehensive care facility must do the following:

(1) Have an automatic fire sprinkler system throughout the facility before July 1, 2011.

(2) If an automatic fire sprinkler system is not installed throughout the health facility before July 1, 2009, submit before July 1, 2009, a plan to the state department for completion of the automatic fire sprinkler system before July 1, 2011.

(c) The state department shall adopt rules under IC 4-22-2 to implement this section.

SECTION 3. IC 16-28-11-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 6. The state department shall disclose, in the department's consumer guide to nursing homes, whether a health facility is:**

(1) fully;

(2) partially; or

(3) not;

equipped with sprinklers.

SECTION 4. IC 16-28-11-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 7. The state department shall disclose the following information in the department's consumer guide to nursing homes:**

(1) Whether a health facility has:

(A) battery operated;

(B) hard wired; or

(C) no;

smoke detectors in each resident's room.

(2) If a health facility has hard wired or wireless smoke detectors in each resident's room, whether the smoke detectors:

(A) provide a visual and audible signal at the nurses' stations that attend each room;

(B) transmit to a central station service; and

(C) connect to the facility's fire alarm system.

SECTION 5. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "commissioner" has the meaning set forth in IC 16-18-2-340.**

(b) Notwithstanding IC 16-28-11-5, as added by this act, the state department of health shall carry out the duties imposed upon the state department of health under IC 16-28-11-5, as added by this act, under interim written guidelines approved by the commissioner.

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

(1) The date rules are adopted under IC 16-28-11-5, as added by this act.

(2) January 1, 2008.

SECTION 6. [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)] **(a) As used in this SECTION, "net worth" has the meaning set forth in IC 27-13-12-1.**

(b) Notwithstanding IC 27-13-12, the department of insurance may accept from a health maintenance organization, instead of requiring the health maintenance organization to meet the minimum net worth requirements, either:

(1) a performance bond; or

(2) a cash deposit;

in an amount equal to the difference between the minimum net worth requirement set forth in IC 27-13-12 and the risk based capital requirement imposed under IC 27-1-36.

(c) This SECTION expires July 1, 2007.

SECTION 7. [EFFECTIVE JANUARY 1, 2007] **(a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.**

(b) The office or a managed care organization shall reimburse at a rate of:

(1) one hundred percent (100%) of rates payable under the Medicaid fee structure; or

(2) a contractually agreed upon rate between the physician and the managed care organization;

for professional emergency physician screening services provided under current procedural terminology (CPT) codes 99281 through 99283.

(c) The office may adopt rules to provide reimbursement for screening services provided in an emergency department of a hospital licensed under IC 16-21 that are not already a covered service.

(d) This SECTION expires December 31, 2007.

SECTION 8. **An emergency is declared for this act.**

(Reference is to EHB 1329 as printed February 24, 2006.)

T. HARRIS	MILLER
MAYS	SIPES
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT

EHB 1001–1; filed March 14, 2006, at 5:39 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1001 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 amendment made by the committee report of the committee of one adopted March 1, 2006.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-1.1-12-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. (a) Each year a person who is entitled to receive the homestead credit provided under IC 6-1.1-20.9 for property taxes payable in the following year is entitled to a standard deduction from the assessed value of the real property, mobile home not assessed as real property, or manufactured home not assessed as real property that qualifies for the homestead credit. The auditor of the county shall record and make the deduction for the person qualifying for the deduction.

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

(1) one-half (½) of the assessed value of the real property, mobile home not assessed as real property, or manufactured home not assessed as real property; or

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

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

(B) after December 31, 2006, and before January 1, 2008, forty-five thousand dollars ($45,000); and

(C) after December 31, 2007, thirty-five thousand dollars ($35,000).

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

SECTION 2. IC 6-1.1-15-1, AS AMENDED BY P.L.199-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) A taxpayer may obtain a review by the county property tax assessment board of appeals of a county or township official's action with respect to the assessment of the taxpayer's tangible property if the official's action requires the giving of notice to the taxpayer. At the time that notice is given to the taxpayer, the taxpayer shall also be informed in writing of:

(1) the opportunity for review under this section, including an informal preliminary conference with the county or township official referred to in this subsection; and

(2) the procedures the taxpayer must follow in order to obtain review under this section.

(b) In order to appeal ~~a current~~ **an** assessment ~~and have a change in the assessment~~ effective for the ~~most recent~~ assessment date **that applies to property taxes first due and payable in the current calendar year:**

(1) the taxpayer must request in writing a preliminary conference with the county or township official referred to in subsection (a) ~~(1)~~ not later than forty-five (45) days after notice of a change in the assessment **for the current calendar year** is given to the taxpayer; or

(2) **if the current year is:**

(A) before 2010 and a notice of a change in assessment is not given to the taxpayer, the taxpayer must request in writing a preliminary conference with the county or township official referred to in subsection (a) on or before May 10 of ~~that~~ **the** year **in which the assessment date occurs; and**

(B) if the current calendar year is a calendar year after 2009, not later than forty-five (45) days after notice of the statement under IC 6-1.1-17-3.

~~whichever is later.~~ The preliminary conference required under this subsection is a prerequisite to a review by the county property tax assessment board of appeals under subsection (i).

(c) A change in an assessment made as a result of an appeal filed:

(1) in the same year that notice of a change in the assessment is given to the taxpayer; and

(2) after the time prescribed in subsection (b);

becomes effective for the next assessment date.

(d) A taxpayer may appeal a current real property assessment in a year even if the taxpayer has not received a notice of assessment in the year. If an appeal is filed on or before May 10 of a year in which the taxpayer has not received notice of assessment, a change in the assessment resulting from the appeal is effective for the most recent assessment date. If the appeal is filed after May 10, the change becomes effective for the next assessment date.

(e) The written request for a preliminary conference that is required under subsection (b) must include the following information:

(1) The name of the taxpayer.

(2) The address and parcel or key number of the property.

(3) The address and telephone number of the taxpayer.

(f) The county or township official referred to in subsection (a) shall, not later than thirty (30) days after the receipt of a written request for a preliminary conference, attempt to hold a preliminary conference with the taxpayer to resolve as many issues as possible by:

(1) discussing the specifics of the taxpayer's reassessment;

(2) reviewing the taxpayer's property record card;

(3) explaining to the taxpayer how the reassessment was determined;

(4) providing to the taxpayer information about the statutes, rules, and guidelines that govern the determination of the reassessment;

(5) noting and considering objections of the taxpayer;

(6) considering all errors alleged by the taxpayer; and

(7) otherwise educating the taxpayer about:

(A) the taxpayer's reassessment;

(B) the reassessment process; and

(C) the reassessment appeal process.

Not later than ten (10) days after the conference, the county or township official referred to in subsection (a) shall forward to the county auditor and the county property tax assessment board of appeals the results of the conference on a form prescribed by the department of local government finance that must be completed and signed by the taxpayer and the official. The official and the taxpayer shall each retain a copy of the form for their records.

(g) The form submitted to the county property tax assessment board of appeals under subsection (f) must specify the following:

(1) The physical characteristics of the property in issue that bear on the assessment determination.

(2) All other facts relevant to the assessment determination.

(3) A list of the reasons the taxpayer believes that the assessment determination by the county or township official referred to in subsection (a) is incorrect.

(4) An indication of the agreement or disagreement by the official with each item listed under subdivision (3).

(5) The reasons the official believes that the assessment determination is correct.

(h) If after the conference there are no items listed on the form submitted to the county property tax assessment board of appeals under subsection (f) on which there is disagreement:

(1) the county or township official referred to in subsection (a) shall give notice to the taxpayer, the county property tax assessment board of appeals, and the county assessor of the assessment in the amount agreed to by the taxpayer and the official; and

(2) the county property tax assessment board of appeals may reserve the right to change the assessment under IC 6-1.1-13.

(i) If after the conference there are items listed in the form submitted under subsection (f) on which there is disagreement, the county property tax assessment board of appeals shall hold a hearing. The taxpayer and county or township official whose original determination is under review are parties to the proceeding before the board of appeals. Except as provided in subsections (k) and (l), the hearing must be held not later than ninety (90) days after the official's receipt of the taxpayer's written request for a preliminary conference under subsection (b). The taxpayer may present the taxpayer's reasons for disagreement with the assessment. The county or township official referred to in subsection (a) must present the basis for the assessment decision on these items to the board of appeals at the hearing and the reasons the taxpayer's appeal should be denied on those items. The board of appeals shall have a written record of the hearing and prepare a written statement of findings and a decision on each item not later than sixty (60) days after the hearing, except as provided in subsections (k) and (l).

(j) If the township assessor does not attempt to hold a preliminary conference, the taxpayer may file a request in writing with the county assessor for a hearing before the property tax assessment board of appeals. If the board determines that the county or township official referred to in subsection (a) did not attempt to hold a preliminary conference, the board shall hold a hearing. The taxpayer and the county or township official whose original determination is under review are parties to the proceeding before the board of appeals. The hearing must be held not later than ninety (90) days after the receipt by the board of appeals of the taxpayer's hearing request under this subsection. The requirements of subsection (i) with respect to:

(1) participation in the hearing by the taxpayer and the township assessor or county assessor; and

(2) the procedures to be followed by the county board;

apply to a hearing held under this subsection.

(k) This subsection applies to a county having a population of more than three hundred thousand (300,000). In the case of a petition filed after December 31, 2000, the county property tax assessment board of appeals shall:

(1) hold its hearing not later than one hundred eighty (180) days instead of ninety (90) days after the filing of the petition; and

(2) have a written record of the hearing and prepare a written statement of findings and a decision on each item not later than one hundred twenty (120) days after the hearing.

(l) This subsection applies to a county having a population of three hundred thousand (300,000) or less. With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the county property tax assessment board of appeals shall:

(1) hold its hearing not later than one hundred eighty (180) days instead of ninety (90) days after the filing of the petition; and

(2) have a written record of the hearing and prepare a written statement of findings and a decision on each item not later than one hundred twenty (120) days after the hearing.

(m) The county property tax assessment board of appeals:

(1) may not require a taxpayer to file documentary evidence or summaries of statements of testimonial evidence before the hearing required under subsection (i) or (j); and

(2) may amend the form submitted under subsection (f) if the board determines that the amendment is warranted.

(n) Upon receiving a request for a preliminary conference under subsection (b), the county or township official referred to in subsection (a) shall notify the county auditor in writing that the assessment is under appeal. With respect to an appeal of the assessment of real property or personal property filed after June 30, 2005, the notice must include the appellant's name and address, the assessed value of the appealed items for the assessment date immediately preceding the assessment date for which the appeal was filed, and the assessed value of the appealed items on the most recent assessment date. If the county auditor determines that the assessed value of the appealed items constitutes at least one percent (1%) of the total gross certified assessed value of a particular taxing unit for

the assessment date immediately preceding the assessment date for which the appeal was filed, the county auditor shall send a copy of the notice to the affected taxing unit. Failure of the county auditor to send a copy of the notice to the affected taxing unit does not affect the validity of the appeal or delay the appeal.

SECTION 3. IC 6-1.1-17-3, AS AMENDED BY P.L.234-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The proper officers of a political subdivision shall formulate its estimated budget and its proposed tax rate and tax levy on the form prescribed by the department of local government finance and approved by the state board of accounts. The political subdivision shall give notice by publication to taxpayers of:

(1) the estimated budget;
(2) the estimated maximum permissible levy;
(3) the current and proposed tax levies of each fund; and
(4) the amounts of excessive levy appeals to be requested.

In the notice, the political subdivision shall also state the time and place at which a public hearing will be held on these items. The notice shall be published twice in accordance with IC 5-3-1 with the first publication at least ten (10) days before the date fixed for the public hearing. **Beginning in 2009, the duties required by this subsection must be completed before August 10 of the calendar year. A political subdivision shall provide the estimated budget and levy information required for the notice under subsection (b) to the county auditor on the schedule determined by the department of local government finance.**

(b) Beginning in 2009, before August 10 of a calendar year, the county auditor shall mail to the last known address of each person liable for any property taxes, as shown on the tax duplicate, or to the last known address of the most recent owner shown in the transfer book, a statement that includes:

(1) the assessed valuation as of the assessment date in the current calendar year of tangible property on which the person will be liable for property taxes first due and payable in the immediately succeeding calendar year and notice to the person of the opportunity to appeal the assessed valuation under IC 6-1.1-15-1(b);

(2) the amount of property taxes for which the person will be liable to each political subdivision on the tangible property for taxes first due and payable in the immediately succeeding calendar year, taking into account all factors that affect that liability, including:

(A) the estimated budget and proposed tax rate and tax levy formulated by the political subdivision under subsection (a);

(B) any deductions or exemptions that apply to the assessed valuation of the tangible property;

(C) any credits that apply in the determination of the tax liability; and

(D) the county auditor's best estimate of the effects on the tax liability that might result from actions of the county board of tax adjustment or the department of local government finance;

(3) a prominently displayed notation that:

(A) the estimate under subdivision (2) is based on the best information available at the time the statement is mailed; and

(B) based on various factors, including potential actions by the county board of tax adjustment or the department of local government finance, it is possible that the tax liability as finally determined will differ substantially from the estimate;

(4) comparative information showing the amount of property taxes for which the person is liable to each political subdivision on the tangible property for taxes first due and payable in the current year; and

(5) the date, time, and place at which the political subdivision will hold a public hearing on the political subdivision's estimated budget and proposed tax rate and tax levy as required under subsection (a).

(c) The department of local government finance shall:

(1) prescribe a form for; and

(2) provide assistance to county auditors in preparing; statements under subsection (b). Mailing the statement described in subsection (b) to a mortgagee maintaining an escrow account for a person who is liable for any property taxes shall not be construed as compliance with subsection (b).

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

(1) in any county of the solid waste management district; and
(2) in accordance with the annual notice of meetings published under IC 13-21-5-2.

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

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

(1) The cost of child services (as defined in IC 12-19-7-1) of the county payable from the family and children's fund.
(2) The cost of children's psychiatric residential treatment services (as defined in IC 12-19-7.5-1) of the county payable from the children's psychiatric residential treatment services fund.

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

SECTION 4. IC 6-1.1-21-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 3. (a) The department, with the assistance of the auditor of state and the department of local government finance, shall determine an amount equal to the eligible property tax replacement amount, which is the estimated property tax replacement.

(b) The department of local government finance shall certify to the department the amount of homestead credits provided under IC 6-1.1-20.9 which are allowed by the county for the particular calendar year. **The department of local government finance shall make the certification based on the best information available at the time the certification is made.**

(c) If there are one (1) or more taxing districts in the county that contain all or part of an economic development district that meets the requirements of section 5.5 of this chapter, the department of local government finance shall estimate an additional distribution for the county in the same report required under subsection (a). This additional distribution equals the sum of the amounts determined under the following STEPS for all taxing districts in the county that contain all or part of an economic development district:

STEP ONE: Estimate that part of the sum of the amounts under section 2(g)(1)(A) and 2(g)(2) of this chapter that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the estimated property tax replacement amount attributable to the taxing district; by
(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times
(B) the taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

(d) The sum of the amounts determined under subsections (a) through (c) is the particular county's estimated distribution for the calendar year.

SECTION 5. IC 6-1.1-20-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) ~~If a petition and remonstrance process is commenced under section 3.2 of this chapter,~~ **This section applies to a political subdivision that adopts an ordinance or a resolution making a preliminary determination to issue bonds or enter into a lease.** During the

period commencing with the adoption of the ordinance or resolution and, if a petition and remonstrance process is commenced under section 3.2 of this chapter, continuing through the sixty (60) day period commencing with the notice under section 3.2(1) of this chapter, the political subdivision seeking to issue bonds or enter into a lease for the proposed controlled project may not promote a position on the petition or remonstrance by doing any of the following:

(1) Allowing facilities or equipment, including mail and messaging systems, owned by the political subdivision to be used for public relations purposes to promote a position on the petition or remonstrance, unless equal access to the facilities or equipment is given to persons with a position opposite to that of the political subdivision.

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

(3) Using an employee to promote a position on the petition or remonstrance during the employee's normal working hours or paid overtime, **or otherwise compelling an employee to promote a position on the petition or remonstrance at any time.**

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

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

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

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

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

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

(d) A person or an organization that has a contract or arrangement (whether formal or informal) with a school corporation for the use of any of the school corporation's facilities may not spend any money to promote a position on the petition or remonstrance. A person or an organization that violates this subsection commits a Class A infraction.

(e) An attorney, an architect, a construction manager, or a financial adviser for professional services provided with respect to a controlled project may not spend any money to promote a position on the petition or remonstrance. A person who violates this subsection:

(1) commits a Class A infraction; and

(2) is barred from performing any services with respect to the controlled project.

SECTION 6. IC 6-1.1-20-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 11. (a) This section applies to the determination of the validity of a signature on a document required for a petition and remonstrance procedure under this chapter.**

(b) If:

(1) the validity of a signature is uncertain; and

(2) this section does not establish a standard to be applied in that case;

a reasonable doubt must be resolved in favor of the validity of the signature.

(c) Whenever the name of an individual, as printed or signed, contains a minor variation from the name of the individual as set forth in the relevant county records, the signature is considered valid.

(d) Whenever the residence address or mailing address of an individual contains a minor variation from the residence address or mailing address as set forth in the relevant county records, the signature is considered valid.

(e) Notwithstanding subsection (c) or (d), if the residence address or mailing address of an individual contains a substantial variation from the residence address or mailing address as set forth in the relevant county records, the signature is considered invalid.

(f) If the signature of an individual does not substantially conform with the signature of the individual in the relevant county records, the signature is considered invalid. In determining whether a signature substantially conforms with an individual's in the relevant county records, consideration shall be given to whether that lack of conformity may reasonably be attributed to the age, disability, or impairment of the individual.

SECTION 7. IC 6-1.1-20.6-4, AS ADDED BY P.L.246-2005, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. As used in this chapter, "qualified residential property" refers to any of the following that a county fiscal body specifically makes eligible for a credit under this chapter in an ordinance adopted under section 6 of this chapter **and to all the following for purposes of section 6.5 of this chapter:**

(1) An apartment complex.

(2) A homestead.

(3) Residential rental property.

SECTION 8. IC 6-1.1-20.6-6, AS ADDED BY P.L.246-2005, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. **(a) This section applies only to property taxes first due and payable before:**

(1) January 1, 2007, in Lake County; and

(2) January 1, 2008, in a county other than Lake County.

~~(a)~~ **(b)** A county fiscal body:

(1) may adopt an ordinance to authorize the application of the credit under this chapter for one (1) or more calendar years to qualified residential property in the county; and

(2) must adopt an ordinance under subdivision (1) before July 1 of a calendar year to authorize the credit under this chapter for property taxes first due and payable in the immediately succeeding calendar year.

~~(b)~~ **(c)** An ordinance adopted under this section must specify the categories of residential property listed in section 4 of this chapter that are eligible for the credit provided under this chapter.

SECTION 9. IC 6-1.1-20.6-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 6.5. (a) This subsection applies only to property taxes first due and payable after December 31, 2006, and before January 1, 2007, attributable to qualified residential property located in Lake County. A person is entitled to a credit each calendar year under section 7(a) of this chapter against the person's property tax liability for property taxes first due and payable in that calendar year attributable to the person's qualified residential property. However, the county fiscal body may, by ordinance adopted before January 1, 2007, limit the application of the credit granted by this subsection to homesteads.**

(b) This subsection applies only to property taxes first due and payable after December 31, 2007, and before January 1, 2010. A person is entitled to a credit each calendar year under section 7(a) of this chapter against the person's property tax liability for property taxes first due and payable in that calendar year attributable to the person's qualified residential property.

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

SECTION 10. IC 6-1.1-20.6-7, AS ADDED BY P.L.246-2005, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. ~~If the~~ **(a) In the case of a**

credit ~~under this chapter is~~ authorized under ~~section 2~~ **section 6** of this chapter **or provided by section 6.5(a) or 6.5(b) of this chapter** for property taxes first due and payable in a calendar year:

(1) a person is entitled to a credit against the person's property tax liability for property taxes first due and payable in that calendar year attributable to the person's qualified residential property located in the county; and

(2) the amount of the credit is the amount by which the person's property tax liability attributable to the person's qualified residential property for property taxes first due and payable in that calendar year exceeds two percent (2%) of the gross assessed value that is the basis for determination of property taxes on the qualified residential property for property taxes first due and payable in that calendar year.

(b) In the case of a credit provided by section 6.5(c) of this chapter for property taxes first due and payable in a calendar year:

(1) a person is entitled to a credit against the person's property tax liability for property taxes first due and payable in that calendar year attributable to the person's real property and personal property located in the county; and

(2) the amount of the credit is the amount by which the person's property tax liability attributable to the person's real property and personal property for property taxes first due and payable in that calendar year exceeds two percent (2%) of the gross assessed value that is the basis for determination of property taxes on the real property and personal property for property taxes first due and payable in that calendar year.

SECTION 11. IC 6-1.1-20.6-8, AS ADDED BY P.L.246-2005, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. A person is not required to file an application for the credit under this chapter. The county auditor shall:

(1) identify ~~qualified residential~~ **the** property in the county eligible for the credit under this chapter; and

(2) apply the credit under this chapter to property tax liability on the identified ~~qualified residential~~ property.

SECTION 12. IC 6-1.1-20.6-9, AS ADDED BY P.L.246-2005, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. **(a) This section applies only to credits under this chapter against property taxes first due and payable before January 1, 2007.**

~~(a)~~ **(b)** The fiscal body of a county may adopt an ordinance to authorize the county fiscal officer to borrow money repayable over a term not to exceed five (5) years in an amount sufficient to compensate the political subdivisions located wholly or in part in the county for the reduction of property tax collections in a calendar year that results from the application of the credit under this chapter for that calendar year.

~~(b)~~ **(c)** The county fiscal officer shall distribute in a calendar year to each political subdivision located wholly or in part in the county loan proceeds under subsection ~~(a)~~ **(b)** for that calendar year in the amount by which the property tax collections of the political subdivision in that calendar year are reduced as a result of the application of the credit under this chapter for that calendar year.

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

(1) shall:

(A) appropriate for each year in which the loan is to be repaid an amount sufficient to pay the part of the principal and interest on the loan attributable to the distribution received by the political subdivision under subsection ~~(b),~~ **(c);** and

(B) raise property tax revenue in each year in which the loan is to be repaid in the amount necessary to meet the appropriation under clause (A); and

(2) other than the county, shall transfer to the county fiscal officer money dedicated under this section to repayment of the loan in time to allow the county to meet the loan repayment schedule.

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

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

(1) repay; or

(2) contribute to the repayment of;

the loan under subsection ~~(a)~~ **(b)** is not a basis for a political subdivision to obtain an excessive tax levy under IC 6-1.1-18.5 or IC 6-1.1-19.

~~(f)~~ **(g)** The application of the credit under this chapter results in a reduction of the property tax collections of each political subdivision in which the credit is applied. A political subdivision may not increase its property tax levy to make up for that reduction.

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

SECTION 13. IC 6-1.1-20.6-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 9.5. (a) This section applies only to credits under this chapter against property taxes first due and payable after December 31, 2006.**

(b) The application of the credit under this chapter results in a reduction of the property tax collections of each political subdivision in which the credit is applied. A political subdivision may not increase its property tax levy to make up for that reduction.

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

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

SECTION 14. IC 6-1.1-20.9-2, AS AMENDED BY P.L.246-2005, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 2. (a) Except as otherwise provided in section 5 of this chapter, an individual who on March 1 of a particular year either owns or is buying a homestead under a contract that provides the individual is to pay the property taxes on the homestead is entitled each calendar year to a credit against the property taxes which the individual pays on the individual's homestead. However, only one (1) individual may receive a credit under this chapter for a particular homestead in a particular year.

(b) The amount of the credit to which the individual is entitled equals the product of:

(1) the percentage prescribed in subsection (d); multiplied by

(2) the amount of the individual's property tax liability, as that term is defined in IC 6-1.1-21-5, which is:

(A) attributable to the homestead during the particular calendar year; and

(B) determined after the application of the property tax replacement credit under IC 6-1.1-21.

(c) For purposes of determining that part of an individual's property tax liability that is attributable to the individual's homestead, all deductions from assessed valuation which the individual claims under IC 6-1.1-12 or IC 6-1.1-12.1 for property on which the individual's homestead is located must be applied first against the assessed value of the individual's homestead before those deductions are applied against any other property.

(d) The percentage of the credit referred to in subsection (b)(1) is as follows:

YEAR	PERCENTAGE OF THE CREDIT
1996	8%
1997	6%
1998 through 2002	10%
2003 ~~and thereafter~~ **through 2005**	20%
2006	**28%**

2007 and thereafter 20%

However, the property tax replacement fund board established under IC 6-1.1-21-10 shall increase the percentage of the credit provided in the schedule for any year if the budget agency determines that an increase is necessary to provide the minimum tax relief authorized under IC 6-1.1-21-2.5. If the board increases the percentage of the credit provided in the schedule for any year, the percentage of the credit for the immediately following year is the percentage provided in the schedule for that particular year, unless as provided in this subsection the board must increase the percentage of the credit provided in the schedule for that particular year. However, the percentage credit allowed in a particular county for a particular year shall be increased if on January 1 of a year an ordinance adopted by a county income tax council was in effect in the county which increased the homestead credit. The amount of the increase equals the amount designated in the ordinance.

(e) Before October 1 of each year, the assessor shall furnish to the county auditor the amount of the assessed valuation of each homestead for which a homestead credit has been properly filed under this chapter.

(f) The county auditor shall apply the credit equally to each installment of taxes that the individual pays for the property.

(g) Notwithstanding the provisions of this chapter, a taxpayer other than an individual is entitled to the credit provided by this chapter if:

(1) an individual uses the residence as the individual's principal place of residence;

(2) the residence is located in Indiana;

(3) the individual has a beneficial interest in the taxpayer;

(4) the taxpayer either owns the residence or is buying it under a contract, recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence; and

(5) the residence consists of a single-family dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

SECTION 15. IC 6-1.1-22-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) The county treasurer shall either:

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

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

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

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

(A) the amount of the tax rate;

(B) the entity levying the tax owed; and

(C) the dollar amount of the tax owed.

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

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

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

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

(1) only in:

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

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

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

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

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

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

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

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

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

(4) An explanation of the following:

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

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

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

(i) appeal a current assessment; or

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

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

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

(5) A checklist that shows:

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

(B) whether the homestead credit and each property tax deduction applies in the current statement for the property

transmitted under subsection (a)(1) or (a)(2).

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

(g) A county that incurs:

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

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

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

(h) This section expires January 1, 2008.

SECTION 16. IC 6-1.1-22-8.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 8.1. (a) This section applies only to property taxes and special assessments first due and payable after December 31, 2007.**

(b) The county treasurer shall:

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

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

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

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

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

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

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

(A) the amount of the tax rate;

(B) the entity levying the tax owed; and

(C) the dollar amount of the tax owed.

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

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

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

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

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

(7) An explanation of the following:

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

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

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

(i) appeal a current assessment; or

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

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

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

(8) A checklist that shows:

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

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

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

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

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

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

(h) After December 31, 2007, a reference in a law or rule to IC 6-1.1-22-8 shall be treated as a reference to this section.

SECTION 17. IC 6-2.3-1-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 3.5. "Gross consideration" refers to anything of value, including cash or other tangible or intangible property, that a taxpayer pays in consideration for the retail purchase of utility services for consumption before deduction of any costs incurred in providing the utility services.**

SECTION 18. IC 6-2.3-3-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 11. Subject to IC 6-2.3-2 and this chapter, gross receipts derived from activities or businesses or any other sources within Indiana include furnishing utility services to an end user in Indiana for consumption in Indiana, regardless of whether the:**

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

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

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

SECTION 19. IC 6-2.3-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 5.5. Utility Services Use Tax

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 11. If:

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

(2) the person has already paid the utility services use tax in relation to the utility services to a seller permitted to collect the utility services use tax under section 8 of this chapter;

the person may avoid paying the utility services use tax to the department if the person can produce a receipt or other written evidence showing that the person paid the utility services use tax to the seller.

Sec. 12. (a) An individual who:

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

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

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

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

SECTION 20. IC 6-2.5-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) An excise tax, known as the use tax, is imposed on the storage, use, or consumption of tangible personal property in Indiana if the property was acquired in a retail transaction, regardless of the location of that transaction or of the retail merchant making that transaction.

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 21. IC 6-2.5-4-5, AS AMENDED BY P.L.203-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) As used in this section, a "power subsidiary" means a corporation which is owned or controlled by one (1) or more public utilities that furnish or sell electrical energy, natural or artificial gas, water, steam, or steam heat and which produces power exclusively for the use of those public utilities.

(b) A power subsidiary or a person engaged as a public utility is a retail merchant making a retail transaction when the subsidiary or person furnishes or sells electrical energy, natural or artificial gas, water, steam, or steam heating service to a person for commercial or domestic consumption.

(c) Notwithstanding subsection (b), a power subsidiary or a person engaged as a public utility is not a retail merchant making a retail transaction in any of the following transactions:

(1) The power subsidiary or person provides, installs, constructs, services, or removes tangible personal property which is used in connection with the furnishing of the services or commodities listed in subsection (b).

(2) The power subsidiary or person sells the services or commodities listed in subsection (b) to another public utility or power subsidiary described in this section or a person described in section 6 of this chapter.

(3) The power subsidiary or person sells the services or commodities listed in subsection (b) to a person for use in manufacturing, mining, production, refining, oil extraction, mineral extraction, irrigation, agriculture, or horticulture. However, this exclusion for sales of the services and commodities only applies if the services are consumed as an essential and integral part of an integrated process that produces tangible personal property and those sales are separately metered for the excepted uses listed in this subdivision, or if those sales are not separately metered but are predominately used by the purchaser for the excepted uses listed in this subdivision.

(4) The power subsidiary or person sells the services or commodities listed in subsection (b) and all the following conditions are satisfied:

(A) The services or commodities are sold to a business that after June 30, 2004:

(i) relocates all or part of its operations to a facility; or

(ii) expands all or part of its operations in a facility;

located in a military base (as defined in IC 36-7-30-1(c)), a military base reuse area established under IC 36-7-30, the part of an economic development area established under IC 36-7-14.5-12.5 that is or formerly was a military base (as defined in IC 36-7-30-1(c)), a military base recovery site designated under IC 6-3.1-11.5, or a qualified military base enhancement area established under IC 36-7-34.

(B) The business uses the services or commodities in the facility described in clause (A) not later than five (5) years after the operations that are relocated to the facility or expanded in the facility commence.

(C) The sales of the services or commodities are separately metered for use by the relocated or expanded operations.

(D) In the case of a business that uses the services or commodities in a qualified military base enhancement area, the business must satisfy at least one (1) of the following criteria:

(i) The business is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).

(ii) The business is a United States Department of Defense contractor.

(iii) The business and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the business and the United States Department of Defense.

However, this subdivision does not apply to a business that substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations in an area described in this subdivision, unless the department determines that the business had existing operations in the area described in this subdivision and that the operations relocated to the area are an expansion of the business's operations in the area.

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

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

(B) qualify as home energy (as defined in IC 6-2.5-5-16.5);

to a person who acquires the services or commodities after June 30, 2006, and before July 1, 2007, through home energy assistance (as defined in IC 6-2.5-5-16.5).

SECTION 22. IC 6-2.5-5-16.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 16.5. (a) The following definitions apply throughout this section:**

(1) "Home energy" means electricity, oil, gas, coal, propane, or any other fuel for use as the principal source of heating or cooling in residential dwellings.

(2) "Home energy assistance" means programs administered by the state to supply home energy through the Low Income Home Energy Assistance Block Grant under 42 U.S.C. 8261 et seq.

(b) Transactions involving home energy are exempt from the state gross retail tax if the person acquiring the home energy acquires it after June 30, 2006, and before July 1, 2007, through home energy assistance.

SECTION 23. IC 6-2.5-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 9. (a) In determining the amount of state gross retail and use taxes which a retail merchant must remit under section 7 of this chapter, the retail merchant shall, subject to subsections (c) and (d), deduct from the retail merchant's gross retail income from retail transactions made during a particular reporting period, an amount equal to the retail merchant's receivables which:

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

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

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

(b) If a retail merchant deducts a receivable under subsection (a) and subsequently collects all or part of that receivable, then the retail merchant shall, subject to subsection (d)(6), include the amount collected as part of the retail merchant's gross retail income from retail transactions for the particular reporting period in which the retail merchant makes the collection.

(c) This subsection applies only to retail transactions occurring after ~~June 30, 2004.~~ **December 31, 2006. As used in this subsection, "affiliated group" means any combination of the following:**

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

(2) Two (2) or more partnerships (as defined in IC 6-3-1-19), including limited liability companies and limited liability partnerships, that have the same degree of mutual ownership as an affiliated group described in subdivision (1), as determined under the rules adopted by the department.

The right to a deduction under this section is **not** assignable ~~only if the retail merchant that paid the state gross retail or use tax liability assigned the right to the deduction in writing.~~ **to an individual or entity that is not part of the same affiliated group as the assignor.**

(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 24. IC 6-3-1-3.5, AS AMENDED BY P.L.246-2005, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

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

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars ($1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars ($1,000).

(4) Subtract one thousand dollars ($1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) one thousand five hundred dollars ($1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; and

(B) five hundred dollars ($500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars ($40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars ($2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars ($2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

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

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

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

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

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

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

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

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

(4) Subtract an amount equal to the amount included in the

corporation's taxable income under Section 78 of the Internal Revenue Code.

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

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

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

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

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

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) This subsection applies only to the extent that an individual paid

property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

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

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

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

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

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

SECTION 25. IC 6-3-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) With regard to corporations and nonresident persons, "adjusted gross income derived from sources within Indiana", for the purposes of this article, shall mean and include:

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

(2) income from doing business in this state;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the taxable year. However, with respect to a foreign corporation, the denominator does not include the average value of real or tangible personal property owned or rented and used in a place that is outside the United States. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The average of property shall be determined by averaging the values at the beginning and ending of the taxable year, but the department may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the taxpayer's property.

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

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

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

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

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

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

(e) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the taxable year, and the denominator of which is the total sales of the taxpayer everywhere

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) separate accounting;

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

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

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

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

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

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

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

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

(1) a foreign corporation; or

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

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

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

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

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

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

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

SECTION 26. IC 6-3-2-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 20. (a) The following definitions apply throughout this section:**

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

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

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

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

(i) The taxpayer.

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

(iii) A foreign corporation.

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

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

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

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

(C) Licensing fees.

(D) Other substantially similar expenses and costs.

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

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

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

(A) The name of the recipient.

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

(C) The amount paid to the recipient.

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

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

(8) "Recipient" means:

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

(B) a foreign corporation;

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

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

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

(1) intangible expenses; and

(2) any directly related intangible interest expenses;

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

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

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

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

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

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

(ii) a country other than the United States;

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

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

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

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

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

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

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

(A) the payment was received from a person or entity that is an unrelated party, and on behalf of that unrelated party, paid that amount to the recipient in an arm's length transaction; and

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

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

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

(B) the transactions giving rise to the intangible expenses and any directly related intangible interest expenses

between the taxpayer and the recipient did not have Indiana tax avoidance as a principal purpose.

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

(A) the recipient is engaged in:

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

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

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

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

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

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

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

(d) For purposes of this section, intangible expenses or directly related intangible interest expenses shall be considered to be at a commercially reasonable rate or at terms comparable to an arm's length transaction if the intangible expenses or directly related intangible interest expenses meet the arm's length standards of United States Treasury Regulation 1.482-1(b).

(e) If intangible expenses or directly related intangible expenses are determined not to be at a commercially reasonable rate or at terms comparable to an arm's length transaction for purposes of this section, the adjustment required by subsection (b) shall be made only to the extent necessary to cause the intangible expenses or directly related intangible interest expenses to be at a commercially reasonable rate and at terms comparable to an arm's length transaction.

(f) For purposes of this section, transactions giving rise to intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient shall be considered as having Indiana tax avoidance as the principal purpose if:

(1) there is not one (1) or more valid business purposes that independently sustain the transaction notwithstanding any tax benefits associated with the transaction; and

(2) the principal purpose of tax avoidance exceeds any other valid business purpose.

SECTION 27. IC 6-3.5-1.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The county council of any county in which the county option income tax will not be in effect on July 1 of a year under an ordinance adopted during a previous calendar year may impose the county adjusted gross income tax on the adjusted gross income of county taxpayers of its county effective July 1 of that year.

(b) Except as provided in section **2.3,** 2.5, 2.7, 2.8, 2.9, 3.3, 3.5, or 3.6 of this chapter, the county adjusted gross income tax may be imposed at a rate of one-half of one percent (0.5%), three-fourths of one percent (0.75%), or one percent (1%) on the adjusted gross income of resident county taxpayers of the county. Any county imposing the county adjusted gross income tax must impose the tax on the nonresident county taxpayers at a rate of one-fourth of one percent (0.25%) on their adjusted gross income. If the county council elects to decrease the county adjusted gross income tax, the county council may decrease the county adjusted gross income tax rate in increments of one-tenth of one percent (0.1%).

(c) To impose the county adjusted gross income tax, the county council must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The _____ County Council imposes the county adjusted gross income tax on the county taxpayers of _____ County. The county adjusted gross income tax is imposed at a rate of _____ percent (_____%) on the resident county taxpayers of the county and one-fourth of one percent (0.25%) on the nonresident county taxpayers of the county. This tax takes effect July 1 of this year.".

(d) Any ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(e) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

(f) If the county adjusted gross income tax had previously been adopted by a county under IC 6-3.5-1 (before its repeal on March 15, 1983) and that tax was in effect at the time of the enactment of this chapter, then the county adjusted gross income tax continues in that county at the rates in effect at the time of enactment until the rates are modified or the tax is rescinded in the manner prescribed by this chapter. If a county's adjusted gross income tax is continued under this subsection, then the tax shall be treated as if it had been imposed under this chapter and is subject to rescission or reduction as authorized in this chapter.

SECTION 28. IC 6-3.5-1.1-2.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.3. (a) This section applies to Jasper County.**

(b) The county council may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to:

(1) finance, construct, acquire, improve, renovate, or equip:

(A) jail facilities;

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

(C) other criminal justice facilities; and

(D) related buildings and parking facilities;

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

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

(c) The county council may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to operate or maintain any of the facilities described in subsection (b)(1)(A) through (b)(1)(D) that are located in the county. The county council may make a determination under both this subsection and subsection (b).

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

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

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

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

on the adjusted gross income of county taxpayers if the county council makes a finding and determination set forth in subsection (b) or (c).

(e) If the county council imposes the tax under this section to pay for the purposes described in both subsections (b) and (c), when:

(1) the financing, construction, acquisition, improvement, renovation, and equipping described in subsection (b) are completed; and

(2) all bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described in subsection (b) are fully paid;

the county council shall, subject to subsection (d), establish a tax rate under this section by ordinance such that the revenue from the tax does not exceed the costs of operating and maintaining the jail facilities described in subsection (b)(1)(A). The tax rate may not be imposed at a rate greater than is necessary to carry out the purposes described in subsections (b) and (c), as applicable.

(f) An ordinance adopted under this section before June 1, 2006, or April 1 in a subsequent year applies to the imposition of county income taxes after June 30 in that year. An ordinance

adopted under this section after May 31, 2006, and March 31 of a subsequent year initially applies to the imposition of county option income taxes after June 30 of the immediately following year.

(g) The tax imposed under this section may be imposed only until the latest of the following:

(1) The date on which the financing, construction, acquisition, improvement, renovation, and equipping described in subsection (b) are completed.

(2) The date on which the last of any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described in subsection (b) are fully paid.

(3) The date on which an ordinance adopted under subsection (c) is rescinded.

(h) The term of the bonds issued (including any refunding bonds) or a lease entered into under subsection (b)(2) may not exceed twenty (20) years.

(i) The county treasurer shall establish a criminal justice facilities revenue fund to be used only for purposes described in this section. County adjusted gross income tax revenues derived from the tax rate imposed under this section shall be deposited in the criminal justice facilities revenue fund before making a certified distribution under section 11 of this chapter.

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

(1) may be used only for the purposes described in this section;

(2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and

(3) may be pledged to the repayment of bonds issued or leases entered into for any or all the purposes described in subsection (b).

(k) Notwithstanding any other law, money remaining in the criminal justice facilities revenue fund established under subsection (i) after the tax imposed by this section is terminated under subsection (f) shall be transferred to the county highway fund to be used for construction, resurfacing, restoration, and rehabilitation of county highways, roads, and bridges.

SECTION 29. IC 6-3.5-1.1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Except as provided in subsection (b), one-half (½) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 8 of this chapter to the appropriate county treasurer on May 1 and the other one-half (½) on November 1 of that calendar year.

(b) This subsection applies to a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000). Notwithstanding section 9 of this chapter, the initial certified distribution certified for a county under section 9 of this chapter shall be distributed to the county treasurer from the account established for the county under section 8 of this chapter according to the following schedule during the eighteen (18) month period beginning on July 1 of the year in which the county initially adopts an ordinance under section 2 of this chapter:

(1) One-fourth (1/4) on October 1 of the year in which the ordinance was adopted.

(2) One-fourth (1/4) on January 1 of the calendar year following the year in which the ordinance was adopted.

(3) One-fourth (1/4) on May 1 of the calendar year following the year in which the ordinance was adopted.

(4) One-fourth (1/4) on November 1 of the calendar year following the year in which the ordinance was adopted.

Notwithstanding section 11 of this chapter, the part of the certified distribution received under subdivision (1) that would otherwise be allocated to a civil taxing unit or school corporation as property tax replacement credits under section 11 of this chapter shall be set aside and treated for the calendar year when received by the civil taxing unit or school corporation as a levy excess subject to IC 6-1.1-18.5-17 or IC 6-1.1-19-1.7. Certified distributions made to the county treasurer for calendar years following the eighteen (18) month period described in this subsection shall be made as provided in subsection (a).

(c) Except for:

(1) revenue that must be used to pay the costs of:

(A) financing, constructing, acquiring, improving, renovating, equipping, operating, or maintaining facilities and buildings;

(B) debt service on bonds; or

(C) lease rentals;

under section 2.3 of this chapter;

~~(1)~~ **(2)** revenue that must be used to pay the costs of operating a jail and juvenile detention center under section 2.5(d) of this chapter;

~~(2)~~ **(3)** revenue that must be used to pay the costs of:

(A) financing, constructing, acquiring, improving, renovating, or equipping facilities and buildings;

(B) debt service on bonds; or

(C) lease rentals;

under section 2.8 of this chapter;

~~(3)~~ **(4)** revenue that must be used to pay the costs of construction, improvement, renovation, or remodeling of a jail and related buildings and parking structures under section 2.7, 2.9, or 3.3 of this chapter;

~~(4)~~ **(5)** revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter; or

~~(5)~~ **(6)** revenue that must be used to pay the costs of constructing, acquiring, improving, renovating, or equipping a county courthouse under section 3.6 of this chapter;

distributions made to a county treasurer under subsections (a) and (b) shall be treated as though they were property taxes that were due and payable during that same calendar year. Except as provided by subsection (b), the certified distribution shall be distributed and used by the taxing units and school corporations as provided in sections 11 through 15 of this chapter.

(d) All distributions from an account established under section 8 of this chapter shall be made by warrants issued by the auditor of the state to the treasurer of the state ordering the appropriate payments.

SECTION 30. IC 6-3.5-1.1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except for:

(1) revenue that must be used to pay the costs of:

(A) financing, constructing, acquiring, improving, renovating, equipping, operating, or maintaining facilities and buildings;

(B) debt service on bonds; or

(C) lease rentals;

under section 2.3 of this chapter;

~~(1)~~ **(2)** revenue that must be used to pay the costs of operating a jail and juvenile detention center under section 2.5(d) of this chapter;

~~(2)~~ **(3)** revenue that must be used to pay the costs of:

(A) financing, constructing, acquiring, improving, renovating, or equipping facilities and buildings;

(B) debt service on bonds; or

(C) lease rentals;

under section 2.8 of this chapter;

~~(3)~~ **(4)** revenue that must be used to pay the costs of construction, improvement, renovation, or remodeling of a jail and related buildings and parking structures under section 2.7, 2.9, or 3.3 of this chapter;

~~(4)~~ **(5)** revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter; or

~~(5)~~ **(6)** revenue that must be used to pay the costs of constructing, acquiring, improving, renovating, or equipping a county courthouse under section 3.6 of this chapter;

the certified distribution received by a county treasurer shall, in the manner prescribed in this section, be allocated, distributed, and used by the civil taxing units and school corporations of the county as certified shares and property tax replacement credits.

(b) Before August 10 of each calendar year, each county auditor shall determine the part of the certified distribution for the next

succeeding calendar year that will be allocated as property tax replacement credits and the part that will be allocated as certified shares. The percentage of a certified distribution that will be allocated as property tax replacement credits or as certified shares depends upon the county adjusted gross income tax rate for resident county taxpayers in effect on August 1 of the calendar year that precedes the year in which the certified distribution will be received by two (2) years. The percentages are set forth in the following table:

COUNTY ADJUSTED GROSS INCOME TAX RATE	PROPERTY TAX REPLACEMENT CREDITS	CERTIFIED SHARES
0.5%	50%	50%
0.75%	33 1/3%	66 2/3%
1%	25%	75%

(c) The part of a certified distribution that constitutes property tax replacement credits shall be distributed as provided under sections 12, 13, and 14 of this chapter.

(d) The part of a certified distribution that constitutes certified shares shall be distributed as provided by section 15 of this chapter.

SECTION 31. IC 6-3.5-6-18, AS AMENDED BY P.L.207-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS[[EFFECTIVE UPON PASSAGE]: Sec. 18. (a) The revenue a county auditor receives under this chapter shall be used to:

(1) replace the amount, if any, of property tax revenue lost due to the allowance of an increased homestead credit within the county;

(2) fund the operation of a public communications system and computer facilities district as provided in an election, if any, made by the county fiscal body under IC 36-8-15-19(b);

(3) fund the operation of a public transportation corporation as provided in an election, if any, made by the county fiscal body under IC 36-9-4-42;

(4) make payments permitted under IC 36-7-15.1-17.5;

(5) make payments permitted under subsection (i); ~~and~~

(6) make distributions of distributive shares to the civil taxing units of a county; **and**

(7) make the distributions permitted under sections 27, 28, and 29 of this chapter.

(b) The county auditor shall retain from the payments of the county's certified distribution, an amount equal to the revenue lost, if any, due to the increase of the homestead credit within the county. This money shall be distributed to the civil taxing units and school corporations of the county as though they were property tax collections and in such a manner that no civil taxing unit or school corporation shall suffer a net revenue loss due to the allowance of an increased homestead credit.

(c) The county auditor shall retain:

(1) the amount, if any, specified by the county fiscal body for a particular calendar year under subsection (i), IC 36-7-15.1-17.5, IC 36-8-15-19(b), and IC 36-9-4-42 from the county's certified distribution for that same calendar year; **and**

(2) the amount of an additional tax rate imposed under section 27, 28, or 29 of this chapter.

The county auditor shall distribute amounts retained under this subsection to the county.

(d) All certified distribution revenues that are not retained and distributed under subsections (b) and (c) shall be distributed to the civil taxing units of the county as distributive shares.

(e) The amount of distributive shares that each civil taxing unit in a county is entitled to receive during a month equals the product of the following:

(1) The amount of revenue that is to be distributed as distributive shares during that month; multiplied by

(2) A fraction. The numerator of the fraction equals the allocation amount for the civil taxing unit for the calendar year in which the month falls. The denominator of the fraction equals the sum of the allocation amounts of all the civil taxing units of the county for the calendar year in which the month falls.

(f) The department of local government finance shall provide each county auditor with the fractional amount of distributive shares that each civil taxing unit in the auditor's county is entitled to receive monthly under this section.

(g) Notwithstanding subsection (e), if a civil taxing unit of an adopting county does not impose a property tax levy that is first due and payable in a calendar year in which distributive shares are being distributed under this section, that civil taxing unit is entitled to receive a part of the revenue to be distributed as distributive shares under this section within the county. The fractional amount such a civil taxing unit is entitled to receive each month during that calendar year equals the product of the following:

(1) The amount to be distributed as distributive shares during that month; multiplied by

(2) A fraction. The numerator of the fraction equals the budget of that civil taxing unit for that calendar year. The denominator of the fraction equals the aggregate budgets of all civil taxing units of that county for that calendar year.

(h) If for a calendar year a civil taxing unit is allocated a part of a county's distributive shares by subsection (g), then the formula used in subsection (e) to determine all other civil taxing units' distributive shares shall be changed each month for that same year by reducing the amount to be distributed as distributive shares under subsection (e) by the amount of distributive shares allocated under subsection (g) for that same month. The department of local government finance shall make any adjustments required by this subsection and provide them to the appropriate county auditors.

(i) Notwithstanding any other law, a county fiscal body may pledge revenues received under this chapter to the payment of bonds or lease rentals to finance a qualified economic development tax project under IC 36-7-27 in that county or in any other county if the county fiscal body determines that the project will promote significant opportunities for the gainful employment or retention of employment of the county's residents.

SECTION 32. IC 6-3.5-6-29 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 29. (a) This section applies only to Scott County. Scott County is a county in which:**

(1) maintaining low property tax rates is essential to economic development; and

(2) the use of additional county option income tax revenues as provided in this section, rather than the use of property taxes, to fund:

(A) the financing, construction, acquisition, improvement, renovation, equipping, operation, or maintenance of jail facilities; and

(B) the repayment of bonds issued or leases entered into for the purposes described in clause (A), except operation or maintenance;

promotes the purpose of maintaining low property tax rates.

(b) The county fiscal body may impose the county option income tax on the adjusted gross income of resident county taxpayers at a rate, in addition to the rates permitted by sections 8 and 9 of this chapter, not to exceed twenty-five hundredths percent (0.25%). Section 8(e) of this chapter applies to the application of the additional rate to nonresident taxpayers.

(c) To impose the county option income tax as provided in this section, the county fiscal body must adopt an ordinance finding and determining that additional revenues from the county option income tax are needed in the county to fund:

(1) the financing, construction, acquisition, improvement, renovation, equipping, operation, or maintenance of jail facilities; and

(2) the repayment of bonds issued or leases entered into for the purposes described in subdivision (1), except operation or maintenance.

(d) If the county fiscal body makes a determination under subsection (c), the county fiscal body may adopt an additional tax rate under subsection (b). Subject to the limitations in subsection (b), the county fiscal body may amend an ordinance adopted under this section to increase, decrease, or rescind the additional tax rate imposed under this section. As soon as practicable after the adoption of an ordinance under this section, the county fiscal body shall send a certified copy of the ordinance to the county auditor, the department of local government finance, and the department. An ordinance adopted under this section before June 1, 2006, or April 1 in a subsequent year applies to the imposition

of county income taxes after June 30 in that year. An ordinance adopted under this section after May 31, 2006, and March 31 of a subsequent year initially applies to the imposition of county option income taxes after June 30 of the immediately following year.

(e) If the county imposes an additional tax rate under this section, the county treasurer shall establish a county jail revenue fund to be used only for the purposes described in this section. County option income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before making a certified distribution under section 18 of this chapter.

(f) County option income tax revenues derived from an additional tax rate imposed under this section:

(1) may be used only for the purposes described in this section;

(2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and

(3) may be pledged for the repayment of bonds issued or leases entered into to fund the purposes described in subsection (c)(1), except operation or maintenance.

(g) If the county imposes an additional tax rate under this section, the department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of the county to provide for an increased distribution of taxes in the immediately following calendar year after the county adopts the increased tax rate and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in section 17(a)(1) through 17(a)(2) of this chapter in the manner provided in section 17(c) of this chapter.

SECTION 33. IC 6-3.5-7-5, AS AMENDED BY P.L.214-2005, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (c), the county economic development income tax may be imposed on the adjusted gross income of county taxpayers. The entity that may impose the tax is:

(1) the county income tax council (as defined in IC 6-3.5-6-1) if the county option income tax is in effect on January 1 of the year the county economic development income tax is imposed;

(2) the county council if the county adjusted gross income tax is in effect on January 1 of the year the county economic development tax is imposed; or

(3) the county income tax council or the county council, whichever acts first, for a county not covered by subdivision (1) or (2).

To impose the county economic development income tax, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax.

(b) Except as provided in subsections (c), (g), (k), (p), and (r) the county economic development income tax may be imposed at a rate of:

(1) one-tenth percent (0.1%);
(2) two-tenths percent (0.2%);
(3) twenty-five hundredths percent (0.25%);
(4) three-tenths percent (0.3%);
(5) thirty-five hundredths percent (0.35%);
(6) four-tenths percent (0.4%);
(7) forty-five hundredths percent (0.45%); or
(8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h), (i), (j), (k), (l), (m), (n), (o), (p), ~~or~~ (s), **or (v),** the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g), (p), (r), ~~or~~ (t), **or (u),** the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose, increase, decrease, or rescind the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance to impose the tax must substantially state the following:

"The _____ County _____ imposes the county economic development income tax on the county taxpayers of _____ County. The county economic development income tax is imposed at a rate of _____ percent (____%) on the county taxpayers of the county. This tax takes effect July 1 of this year.".

(e) Any ordinance adopted under this chapter takes effect July 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this chapter and shall, not more than ten (10) days after the vote, send a certified copy of the results to the commissioner of the department by certified mail.

(g) This subsection applies to a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000). Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of:
(A) fifteen-hundredths percent (0.15%);
(B) two-tenths percent (0.2%); or
(C) twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

if the county income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.

(h) For a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and thirty-five hundredths percent (1.35%) if the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(i) For a county having a population of more than thirteen thousand five hundred (13,500) but less than fourteen thousand (14,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%).

(j) For a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred (71,400), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(k) This subsection applies to a county having a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-seven thousand five hundred (27,500). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(l) For a county having a population of more than twenty-nine thousand (29,000) but less than thirty thousand (30,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(m) For:

(1) a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000); or

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

hundred (45,900);
except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(n) For a county having a population of more than six thousand (6,000) but less than eight thousand (8,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(o) This subsection applies to a county having a population of more than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and:

(A) the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%); or

(B) the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 24 of this chapter.

(p) In addition:

(1) the county economic development income tax may be imposed at a rate that exceeds by not more than twenty-five hundredths percent (0.25%) the maximum rate that would otherwise apply under this section; and

(2) the:

(A) county economic development income tax; and

(B) county option income tax or county adjusted gross income tax;

may be imposed at combined rates that exceed by not more than twenty-five hundredths percent (0.25%) the maximum combined rates that would otherwise apply under this section.

However, the additional rate imposed under this subsection may not exceed the amount necessary to mitigate the increased ad valorem property taxes on homesteads (as defined in IC 6-1.1-20.9-1) **or residential property (as defined in section 26 of this chapter), as appropriate under the ordinance adopted by the adopting body in the county,** resulting from the deduction of the assessed value of inventory in the county under IC 6-1.1-12-41 or IC 6-1.1-12-42.

(q) If the county economic development income tax is imposed as authorized under subsection (p) at a rate that exceeds the maximum rate that would otherwise apply under this section, the certified distribution must be used for the purpose provided in section 25(e) or 26 of this chapter to the extent that the certified distribution results from the difference between:

(1) the actual county economic development tax rate; and

(2) the maximum rate that would otherwise apply under this section.

(r) This subsection applies only to a county described in section 27 of this chapter. Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 27 of this chapter.

(s) Except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%) if the county has imposed the county adjusted gross income tax under IC 6-3.5-1.1-3.3.

(t) This subsection applies to Howard County. Except as provided in subsection (p), the sum of the county economic development income tax rate and the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%).

(u) This subsection applies to Scott County. Except as provided in subsection (p), the sum of the county economic development income tax rate and the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%).

(v) This subsection applies to Jasper County. Except as provided in subsection (p), the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

SECTION 34. IC 6-3.5-7-26, AS AMENDED BY P.L.199-2005, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) This section applies only to homestead **and property tax replacement** credits for property taxes first due and payable after calendar year 2006.

(b) ~~For purposes of~~ **The following definitions apply throughout** this section:

(1) "Adopt" includes amend.

(2) "Adopting entity" means:

~~(1)~~ **(A)** the entity that adopts an ordinance under IC 6-1.1-12-41(f); or

~~(2)~~ **(B)** any other entity that may impose a county economic development income tax under section 5 of this chapter.

(3) "Homestead" refers to tangible property that is eligible for a homestead credit under IC 6-1.1-20.9.

(4) "Residential" refers to the following:

(A) Real property, a mobile home, and industrialized housing that would qualify as a homestead if the taxpayer had filed for a homestead credit under IC 6-1.1-20.9.

(B) Real property not described in clause (A) designed to provide units that are regularly used to rent or otherwise furnish residential accommodations for periods of thirty (30) days or more, regardless of whether the tangible property is subject to assessment under rules of the department of local government finance that apply to:

(i) residential property; or

(ii) commercial property.

(c) An adopting entity may adopt an ordinance to provide for the use of the certified distribution described in section 16(c) of this chapter for the purpose provided in subsection (e). An adopting entity that adopts an ordinance under this subsection shall use the procedures set forth in IC 6-3.5-6 concerning the adoption of an ordinance for the imposition of the county option income tax. An ordinance must be adopted under this subsection after **January 1, 2006, and before June 1, 2006, or, in a year following 2006, after** January 1 but before April 1 of a calendar year. The ordinance may provide for an additional rate under section 5(p) of this chapter. An ordinance adopted under this subsection:

(1) first applies to the certified distribution described in section 16(c) of this chapter made in the later of the calendar year that immediately succeeds the calendar year in which the ordinance is adopted or calendar year 2007; and

(2) must specify that the certified distribution must be used to provide for **one (1) of the following, as determined by the adopting entity:**

(A) Uniformly applied increased homestead credits as provided in subsection (f). ~~or~~

(B) Uniformly applied increased residential credits as provided in subsection (g).

~~(B)~~ **(C)** Allocated increased homestead credits as provided in subsection ~~(h).~~ **(i).**

(D) Allocated increased residential credits as provided in subsection (j).

An ordinance adopted under this subsection may be combined with an ordinance adopted under section 25 of this chapter.

(d) If an ordinance is adopted under subsection (c), the percentage of the certified distribution specified in the ordinance for use for the purpose provided in subsection (e) shall be:

(1) retained by the county auditor under subsection ~~(i),~~ **(k);** and
(2) used for the purpose provided in subsection (e) instead of the purposes specified in the capital improvement plans adopted under section 15 of this chapter.

(e) If an ordinance is adopted under subsection (c), the adopting entity shall use the certified distribution described in section 16(c) of this chapter to increase:

(1) if the ordinance grants a credit described in subsection (c)(2)(A) or (c)(2)(C), the homestead credit allowed in the county under IC 6-1.1-20.9 for a year; **or**

(2) if the ordinance grants a credit described in subsection (c)(2)(B) or (c)(2)(D), the property tax replacement credit allowed in the county under IC 6-1.1-21-5 for a year for the residential property;

to offset the effect on homesteads **or residential property, as applicable,** in the county resulting from the statewide deduction for inventory under IC 6-1.1-12-42. **The amount of an additional residential property tax replacement credit granted under this section may not be considered in computing the amount of any homestead credit to which the residential property may be entitled under IC 6-1.1-20.9 or another law other than IC 6-1.1-20.6.**

(f) If the imposing entity specifies the application of uniform increased homestead credits under subsection (c)(2)(A), the county auditor shall, for each calendar year in which an increased homestead credit percentage is authorized under this section, determine:

(1) the amount of the certified distribution that is available to provide an increased homestead credit percentage for the year;
(2) the amount of uniformly applied homestead credits for the year in the county that equals the amount determined under subdivision (1); and
(3) the increased percentage of homestead credit that equates to the amount of homestead credits determined under subdivision (2).

(g) If the imposing entity specifies the application of uniform increased residential credits under subsection (c)(2)(B), the county auditor shall determine for each calendar year in which an increased homestead credit percentage is authorized under this section:

(1) the amount of the certified distribution that is available to provide an increased residential property tax replacement credit percentage for the year;
(2) the amount of uniformly applied residential property tax replacement credits for the year in the county that equals the amount determined under subdivision (1); and
(3) the increased percentage of residential property tax replacement credit that equates to the amount of residential property tax replacement credits determined under subdivision (2).

~~(g)~~ **(h)** The increased percentage of homestead credit determined by the county auditor under subsection (f) **or the increased percentage of residential property tax replacement credit determined by the county auditor under subsection (g)** applies uniformly in the county in the calendar year for which the increased percentage is determined.

~~(h)~~ **(i)** If the imposing entity specifies the application of allocated increased homestead credits under subsection ~~(c)(2)(B),~~ **(c)(2)(C),** the county auditor shall, for each calendar year in which an increased homestead credit is authorized under this section, determine:

(1) the amount of the certified distribution that is available to provide an increased homestead credit for the year; and
(2) except as provided in subsection ~~(j),~~ **(l),** an increased percentage of homestead credit for each taxing district in the county that allocates to the taxing district an amount of increased homestead credits that bears the same proportion to the amount determined under subdivision (1) that the amount of inventory assessed value deducted under IC 6-1.1-12-42 in the taxing district for the immediately preceding year's assessment date bears to the total inventory assessed value deducted under IC 6-1.1-12-42 in the county for the immediately preceding year's assessment date.

(j) If the imposing entity specifies the application of allocated increased residential property tax replacement credits under subsection (c)(2)(D), the county auditor shall determine for each calendar year in which an increased residential property tax replacement credit is authorized under this section:

(1) the amount of the certified distribution that is available to provide an increased residential property tax replacement credit for the year; and
(2) except as provided in subsection (l), an increased percentage of residential property tax replacement credit for each taxing district in the county that allocates to the taxing district an amount of increased residential property tax replacement credits that bears the same proportion to the amount determined under subdivision (1) that the amount of inventory assessed value deducted under IC 6-1.1-12-42 in the taxing district for the immediately preceding year's assessment date bears to the total inventory assessed value deducted under IC 6-1.1-12-42 in the county for the immediately preceding year's assessment date.

~~(i)~~ **(k)** The county auditor shall retain from the payments of the county's certified distribution an amount equal to the revenue lost, if any, due to the increase of the homestead credit **or residential property tax replacement credit** within the county. The money shall be distributed to the civil taxing units and school corporations of the county:

(1) as if the money were from property tax collections; and
(2) in such a manner that no civil taxing unit or school corporation will suffer a net revenue loss because of the allowance of an increased homestead credit **or residential property tax replacement credit.**

~~(j)~~ **(l)** Subject to the approval of the imposing entity, the county auditor may adjust the increased percentage of:

(1) homestead credit determined under subsection ~~(h)(2)~~ **(i)(2)** if the county auditor determines that the adjustment is necessary to achieve an equitable reduction of property taxes among the homesteads in the county; **or**

(2) residential property tax replacement credit determined under subsection (j)(2) if the county auditor determines that the adjustment is necessary to achieve an equitable reduction of property taxes among the residential property in the county.

SECTION 35. IC 6-8.1-1-1, AS AMENDED BY P.L.214-2005, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the river boat admissions tax (IC 4-33-12); the river boat wagering tax (IC 4-33-13); the gross income tax (IC 6-2.1) (repealed); the utility receipts ~~tax~~ **and utility services use taxes** (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the county adjusted gross income tax (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county economic development income tax (IC 6-3.5-7); the municipal option income tax (IC 6-3.5-8); the auto rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee (IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23); the solid waste management fee (IC 13-20-22); and any other tax or fee that the department is required to collect or administer.

SECTION 36. IC 6-9-39 IS ADDED TO THE INDIANA CODE

AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 39. County Option Dog Tax

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

Sec. 2. As used in this chapter, "taxable dog" means a dog at least six (6) months of age.

Sec. 3. (a) The fiscal body of a county may adopt an ordinance to impose a tax on a person who harbors or keeps a taxable dog in or near the person's premises in the county, regardless of who owns the taxable dog. A person who harbors or keeps a taxable dog in the county is liable for the tax.

(b) A tax imposed under this section may not exceed five dollars ($5) per year for each taxable dog.

(c) The maximum amount of county option dog tax per year that may be imposed by an ordinance adopted under this section for taxable dogs kept in a kennel for breeding, boarding, training, or sale is an amount equal to the lesser of:

(1) the county option dog tax liability calculated without regard to this subsection for taxable dogs kept in the kennel for breeding, boarding, training, or sale; or

(2) for a kennel in which:

(A) more than six (6) taxable dogs are kept for breeding, boarding, training, or sale, fifty dollars ($50); or

(B) not more than six (6) taxable dogs are kept for breeding, boarding, training, or sale, thirty dollars ($30).

Sec. 4. If an ordinance adopted under section 3 of this chapter is in effect in a county, the fiscal body of the county may rescind the ordinance imposing the county option dog tax.

Sec. 5. (a) The fiscal body of a county may collect a county option dog tax imposed under section 3 of this chapter by any combination of the following methods:

(1) By designating one (1) or more persons in the county to collect the tax.

(2) By requiring a person who harbors or keeps a taxable dog to submit a complete and accurate county option dog tax return.

(3) By a method other than a method described in subdivision (1) or (2) as determined by the fiscal body of the county.

(b) A designee under subsection (a)(1) may retain a fee from the tax collected for each taxable dog in an amount determined by the fiscal body not to exceed seventy-five cents ($0.75). A designee shall remit the balance of the money collected to the county treasurer by the tenth day of each month.

(c) If a fiscal body chooses to collect a county option dog tax imposed under section 3 of this chapter by requiring the submission of a county option dog tax return under subsection (a), the county treasurer may include a county option dog tax return form with every property tax statement that is mailed to a person under IC 6-1.1-22-8(a)(1).

(d) The department of local government finance shall prescribe a county option dog tax return form that a county may use for the reporting of county option dog tax liability.

Sec. 6. (a) If a county fiscal body adopts an ordinance under section 3 of this chapter, the county treasurer shall establish a county option dog tax fund.

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

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

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

Sec. 7. (a) A county treasurer that receives county option dog tax revenue under section 5 of this chapter shall deposit the money in the county option dog tax fund according to the following allocation:

(1) Twenty percent (20%) for the canine research and education account established under section 6(b) of this chapter.

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

(b) If an ordinance adopted under section 3 of this chapter is in effect in a county, the county auditor and the county treasurer shall include the county option dog tax revenue received by the county treasurer in the settlement procedures described in IC 6-1.1-27. Amounts accumulated in the county canine research and education account shall be paid to the state treasurer in accordance with the procedure described under IC 6-1.1-27-3.

(c) The fiscal body of a county that imposes a tax under this chapter may appropriate money in the county option dog tax fund, other than money allocated to the canine research and education account established under section 6(b) of this chapter, for any of the following purposes:

(1) The use of animal care facilities.

(2) Animal control, including dead animal disposal.

(3) Reimbursement to farmers for livestock kills.

(4) Reimbursement to people who have undergone rabies post exposure prophylaxis.

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

Sec. 8. (a) A special canine research and education account within the state general fund shall be established. Any payments issued to the state under section 7(b) of this chapter shall be deposited in the canine research and education account in the state general fund.

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

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

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

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

Sec. 9. After July 1, 2006, a county or a municipality (as defined in IC 36-1-2-11) of the county may not adopt an ordinance implementing a licensing system for dogs unless the county option dog tax under this chapter is in effect in the county.

SECTION 37. IC 15-5-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. If a dog kills or injures any livestock while the livestock is in the care, custody, and control of the livestock's owner or ~~his~~ **the owner's** agent, the owner or harborer of the dog is liable to the owner of the livestock for all damages sustained, including ~~his~~ reasonable attorney's fees and the court costs. ~~if the appropriate dog tax has not been paid on the dog, triple damages may be awarded.~~

SECTION 38. IC 15-5-7-3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 3. (a) The following losses and expenses are chargeable to the county in which an attack or exposure occurs:**

(1) Damages, less compensation by insurance or otherwise, sustained by owners of the following stock, fowl, or game killed, maimed, or damaged by dogs:

(A) Sheep.

(B) Cattle.

(C) Horses.

(D) Swine.

(E) Goats.

(F) Mules.

(G) Chickens.

(H) Geese.

(I) Turkeys.
(J) Ducks.
(K) Guineas.
(L) Tame rabbits.
(M) Game birds and game animals held in captivity under authority of a game breeder's license issued by the department of natural resources.
(N) Bison.
(O) Farm raised cervidae.
(P) Ratitae.
(Q) Camelidae.

(2) The expense of rabies post exposure prophylaxis that is incurred by any person who is bitten by or exposed to a dog known to have rabies.

(b) A person requiring the treatment described in subsection (a)(2) may select the person's own physician.

(c) Damages are not chargeable to a county under this section for sheep except those claims in which individual damage exists or is shown.

(d) A county auditor shall establish procedures in accordance with the requirements of subsection (a) and section 4 of this chapter by which claimants may submit claims to the county auditor or a designee of the county auditor.

(e) A county auditor who:

(1) receives a verified claim under subsection (a) from a claimant; and

(2) is satisfied that the claim meets the requirements of subsection (a) and section 4 of this chapter;

shall immediately issue a warrant or check to the claimant for the verified amount of the claim. If a county option dog tax adopted under IC 6-9-39 is not in effect in the county, a claim under this section may be paid out of nonappropriated funds. A county auditor who is not satisfied that a claim meets the requirements of subsection (a) and section 4 of this chapter shall promptly notify the claimant.

(f) A person whose claim under subsection (a) is denied by a county auditor may file an action in a court with jurisdiction to determine whether the county auditor acted in conformance with the requirements of this section and section 4 of this chapter. If the court determines that the county auditor failed to comply with the requirements of this section or section 4 of this chapter in evaluating the person's claim, the court may fashion an appropriate remedy, including an order directed to the county auditor to reconsider the person's claim.

SECTION 39. IC 15-5-7-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4. (a) An owner desiring to make a claim under section 3(a)(1) of this chapter must do the following:**

(1) Not more than seventy-two (72) hours after the time of the loss, notify one (1) of the following having jurisdiction in the location where the loss occurred:

(A) A law enforcement officer.

(B) An officer of a county or municipal animal control center, shelter, or similar impounding facility.

(2) Not more than twenty (20) days after the time of the loss, report the loss to the county auditor as follows:

(A) Under oath, the owner shall state:

(i) the number, age, and value of the stock, fowl, or game; and

(ii) the damages sustained, less compensation by insurance or otherwise.

(B) In an affidavit, the owner must be joined by two (2) disinterested and reputable freeholders residing in the township in which the stock, fowl, or game were killed, maimed, or damaged. The affidavit must state that the freeholders are:

(i) disinterested; and

(ii) not related by blood or marriage to the claimant.

(C) An appraisement of the stock, fowl, or game that were killed, maimed, or damaged may not exceed the actual cash value of the stock, fowl, or game. As it applies to ratitae, cash value may not exceed the slaughter value.

(D) The owner shall provide verification of the loss by an officer under subdivision (1).

(E) Payment for a loss for property owned by a claimant on the last property tax assessment date may not be paid if the property was not reported by the owner for assessment purposes at that time.

(b) In addition to the requirements of subsection (a), the claimant, if requested to do so by the county auditor or a person designated by the county auditor, must grant the right of subrogation to the county for the total amount paid on the claim to the claimant by the county on a form prescribed by the county auditor.

(c) An officer who receives notice under subsection (a)(1) shall visit the scene of the loss, verify the loss in writing, and mark each killed, maimed, or damaged animal so that the animal can support only one (1) claim under this chapter.

(d) A person desiring to make a claim under section 3(a)(2) of this chapter must provide the county auditor with documentation that the person, or a person for whom the claimant is financially responsible, underwent rabies post exposure prophylaxis.

SECTION 40. IC 20-42-1-11, AS ADDED BY HEA 1134-2006, SECTION 165, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. In a county where the total amount in the:

(1) fund; or

(2) congressional township school fund;

accumulates to the amount of at least one thousand dollars ($1,000), a county may ~~not~~ borrow and use the funds or any part of the funds for any lawful purpose for a period not exceeding five (5) years.

SECTION 41. IC 20-42-2-11, AS ADDED BY HEA 1134-2006, SECTION 165, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. In a county where the total amount in the:

(1) common school fund; or

(2) fund;

accumulates to the amount of at least one thousand dollars ($1,000), a county may ~~not~~ borrow and use the funds, or any part of the funds, for any lawful purpose for a period not exceeding five (5) years.

SECTION 42. IC 20-43-2-2, AS ADDED BY HEA 1134-2006, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. The maximum state distribution for a calendar year for all school corporations is:

(1) **the greater of:**

(A) three billion ~~seven~~ **eight** hundred ~~fifty-four~~ **two** million ~~seven~~ **nine** hundred thousand dollars ~~($3,754,700,000)~~ **($3,802,900,000); or**

(B) the amount necessary to enable the department of education to make tuition support distributions in 2006 in accordance with IC 21-1-30 and this article without requiring a reduction in the amount distributed for tuition support under this section;

in 2006; and

(2) three billion seven hundred forty-seven million two hundred thousand dollars ($3,747,200,000) in 2007.

SECTION 43. IC 20-43-2-3, AS ADDED BY HEA 1134-2006, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. **(a) Except as provided in subsection (b),** if the total amount to be distributed:

(1) as basic tuition support;

(2) for academic honors diploma awards;

(3) for primetime distributions;

(4) for special education grants; and

(5) for vocational education grants;

for a particular year exceeds the maximum state distribution for a calendar year, the amount to be distributed for state tuition support under this article to each school corporation during each of the last six (6) months of the year shall be proportionately reduced so that the total reductions equal the amount of the excess.

(b) The department of education shall distribute the full amount of tuition support to school corporations in the second six (6) months of 2006 in accordance with this article without a reduction under this section.

SECTION 44. IC 20-45-1-21, AS ADDED BY HEA 1134-2006, SECTION 168, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 21. "Total assessed value" with

respect to a school corporation means **for:**

(1) 2006, the total assessed value of all taxable property for property taxes first due and payable during the year; **and**

(2) 2007, the lesser of the following:

(A) The total assessed value of all taxable property for property taxes first due and payable during calendar year 2006.

(B) The total assessed value of all taxable property for property taxes first due and payable during calendar year 2007, as certified by the department of local government finance.

SECTION 45. IC 20-45-3-5, AS ADDED BY HEA 1134-2006, SECTION 168, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) A school corporation's tax rate floor is the tax rate determined under this section.

(b) This subsection applies only if the school corporation's guaranteed minimum revenue for the calendar year is not equal to the school corporation's foundation amount revenue for a calendar year. The school corporation's tax rate floor for the calendar year is the result under STEP SIX of the following formula:

STEP ONE: Divide the school corporation's **total** assessed ~~valuation~~ **value** by the school corporation's current ADM.

STEP TWO: Divide the STEP ONE result by ten thousand (10,000).

STEP THREE: Determine the greater of the following:

(A) The STEP TWO result.

(B) Thirty-six dollars and thirty cents ($36.30).

STEP FOUR: Determine the result under clause (B):

(A) Subtract the school corporation's foundation amount revenue for the calendar year from the school corporation's guaranteed minimum revenue for the calendar year.

(B) Divide the clause (A) result by the school corporation's current ADM.

STEP FIVE: Divide the STEP FOUR result by the STEP THREE result.

STEP SIX: Divide the STEP FIVE result by one hundred (100).

(c) This subsection applies only if the school corporation's guaranteed minimum revenue for the calendar year is equal to the school corporation's foundation amount revenue for a calendar year and the STEP ONE result is greater than zero (0). The school corporation's tax rate floor for the calendar year is the result under STEP SEVEN of the following formula:

STEP ONE: Add the following:

(A) An amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.

(B) The part of the unadjusted tuition support levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility during the preceding year.

STEP TWO: Divide the STEP ONE result by the school corporation's current ADM.

STEP THREE: Divide the school corporation's **total** assessed ~~valuation~~ **value** by the school corporation's current ADM.

STEP FOUR: Divide the STEP THREE result by ten thousand (10,000).

STEP FIVE: Determine the greater of the following:

(A) The STEP FOUR result.

(B) Thirty-six dollars and thirty cents ($36.30).

STEP SIX: Divide the STEP TWO result by the STEP FIVE amount.

STEP SEVEN: Divide the STEP SIX result by one hundred (100).

SECTION 46. IC 20-45-3-6, AS ADDED BY HEA 1134-2006, SECTION 168, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. **(a)** A school corporation's target property tax rate for a calendar year is the sum of:

(1) **in:**

(A) 2006, seventy-two cents ($0.72); ~~in 2006~~ and ~~seventy-two~~

(B) 2007, the greater of:

(i) seventy-two and ninety-two hundredths cents ($0.7292); ~~in 2007,~~ **or**

(ii) the rate determined under subsection (b); plus

(2) if applicable, the school corporation's minimum equalization tax rate.

(b) If using the best information available to the department of local government finance, the department of local government finance determines that the result of:

(1) the lesser of:

(A) two billion thirty-five million nine hundred thousand dollars ($2,035,900,000); or

(B) the result of:

(i) the sum of the tuition support levies certified by the department of local government finance for all school corporations for 2006; multiplied by

(ii) one and forty-one thousandths (1.041); minus

(2) the sum of all maximum permissible tuition support levies for all school corporations in 2007, as determined by using the tax rate specified in subsection (a)(1)(B)(i);

would exceed one million dollars ($1,000,000) in 2007, the department of local government finance, shall, before February 16, 2007, adjust the tax rate used in subsection (a)(1)(B) for 2007 so that the difference determined by subtracting the sum of all maximum permissible tuition support levies (as defined in IC 20-45-1-15) for all school corporations determined by using the adjusted tax rate from the amount determined under subdivision (1) does not exceed one million dollars ($1,000,000). To carry out this subsection the department of local government finance may increase a school corporation's tax rate and levy to a rate and amount that exceeds the rate originally advertised or fixed by the school corporation. Before adjusting a tax rate under this subsection, the department of local government finance shall review the recommendations of the department of education and the budget agency.

SECTION 47. IC 27-5.1-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 8. The following provisions apply to standard companies and extended companies:

(1) IC 27-1-3.

(2) IC 27-1-3.1.

(3) IC 27-1-5-3.

(4) IC 27-1-7-14 through IC 27-1-7-16.

(5) IC 27-1-7-21 through IC 27-1-7-23.

(6) IC 27-1-9.

(7) IC 27-1-10.

(8) IC 27-1-13-3 through IC 27-1-13-4.

(9) IC 27-1-13-6 through IC 27-1-13-9.

(10) IC 27-1-15.6.

(11) IC 27-1-18-2.

~~(11)~~ **(12)** IC 27-1-20-1.

~~(12)~~ **(13)** IC 27-1-20-4.

~~(13)~~ **(14)** IC 27-1-20-6.

~~(14)~~ **(15)** IC 27-1-20-9 through IC 27-1-20-11.

~~(15)~~ **(16)** IC 27-1-20-14.

~~(16)~~ **(17)** IC 27-1-20-19 through IC 27-1-20-21.3.

~~(17)~~ **(18)** IC 27-1-20-23.

~~(18)~~ **(19)** IC 27-1-20-30.

~~(19)~~ **(20)** IC 27-1-22.

~~(20)~~ **(21)** IC 27-4-1.

~~(21)~~ **(22)** Except as provided in IC 27-6-1.1-6, IC 27-6-1.1-2.

~~(22)~~ **(23)** IC 27-6-2.

~~(23)~~ **(24)** IC 27-7-2.

~~(24)~~ **(25)** IC 27-9.

~~(25)~~ **(26)** IC 34-30-17.

SECTION 48. IC 36-6-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The assessor shall perform the duties prescribed by statute, including

~~(1)~~ assessment duties prescribed by IC 6-1.1. ~~and~~

~~(2) administration of the dog tax and dog fund, as prescribed by IC 15-5-9.~~

SECTION 49. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 15-5-9; IC 15-5-10.

SECTION 50. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 6-1.1-20.6-6, as in effect January 1, 2006, a**

county may adopt an ordinance under this SECTION to apply the credit authorized by IC 6-1.1-20.6, as in effect January 1, 2006, to property taxes first due and payable in 2006.

(b) If a county has not issued property tax statements under IC 6-1.1-22-8 to the persons liable for property taxes in the county for property taxes first due and payable in 2006, the county fiscal body may adopt an ordinance to apply the credit under IC 6-1.1-20.6, as in effect January 1, 2006, to the property taxes first due and payable in 2006. A county fiscal body may not adopt an ordinance under this subsection after statements are issued under IC 6-1.1-22-8 for the property taxes first due and payable in 2006.

(c) Except as provided in subsection (a), IC 6-1.1-20.6, as in effect January 1, 2006, applies to a credit authorized by an ordinance adopted under this SECTION.

(d) This SECTION expires January 1, 2007.

SECTION 51. [EFFECTIVE JULY 1, 2006] **(a) Notwithstanding the repeal of IC 15-5-9-10 by this act, if any money remains in the state dog account of the state general fund on June 30, 2006, the auditor of state shall, on July 1, 2006, abolish the account and distribute the money as follows:**

(1) Fifty percent (50%) to Purdue University School of Veterinary Science and Medicine, to be used solely for canine disease research.

(2) Fifty percent (50%) to the counties identified under subsection (b).

(b) Money to be distributed under subsection (a)(2) shall be divided among the counties that paid to the auditor of state, under IC 15-5-9-10(j) (before its repeal by this act), the surplus money remaining in the counties' county dog funds on May 1, 2006.

(c) Each county's share of the total amount distributed under this SECTION must be proportional to the county's share of the total amount paid to the auditor of state in 2006 under IC 15-5-9-10(j) (before its repeal by this act).

(d) On or before August 1, 2006, the county auditor of each county shall distribute to the township trustees of the townships located in the county:

(1) money distributed to the county under subsection (b); and

(2) any money remaining in the county dog fund.

An equal share of the money described in this subsection shall be distributed to each township trustee.

(e) A township trustee who receives a distribution under subsection (d) shall use the distribution:

(1) to pay claims filed under IC 15-5-9-9.1 (before its repeal by this act);

(2) to pay fees and charges under IC 15-5-9-10 (before its repeal by this act);

(3) to provide funding for the humane society designated by the county legislative body under IC 15-5-9-8(d) (before its repeal by this act) to receive a part of each dog tax payment; or

(4) if the county legislative body did not designate a humane society under IC 15-5-9-8(d) (before its repeal by this act), to provide funding for the township general fund.

(f) If any part of the money distributed to a township trustee under subsection (d) has not been not expended by July 1, 2007, for a purpose allowed under subsection (e), the township trustee shall distribute the remainder of the distribution received under subsection (d) to the county treasurer. If the county option dog tax under IC 6-9-39, as added by this act, is in effect in the county on July 1, 2007, the county treasurer shall deposit the money in the county option dog tax fund established under IC 6-9-39-6(a), as added by this act. However, notwithstanding IC 6-9-39-7(a), as added by this act, none of the money distributed to the county treasurer under this subsection shall be allocated to the county canine research and education account established under IC 6-9-39-6(b), as added by this act. If the county option dog tax under IC 6-9-39, as added by this act, is not in effect in the county on July 1, 2007, the county treasurer shall deposit the money in the county general fund.

(g) This SECTION expires January 1, 2008.

SECTION 52. [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: **IC 27-5.1-2-8, as amended by this act, applies only to taxable years beginning after December 31, 2005.**

SECTION 53. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "taxable year" has the meaning set forth in IC 6-3-1-16.**

(b) IC 6-3-2-20, as added by this act, applies only to taxable years beginning after June 30, 2006.

(c) The addition of IC 6-3-2-20, as added by this act, does not affect the legitimacy or illegitimacy of deductions claimed by taxpayers for taxable years beginning before July 1, 2006. Any determination of:

(1) the department of state revenue; or

(2) a court reviewing a department of state revenue determination;

of the legitimacy or illegitimacy of deductions claimed by taxpayers for taxable years beginning before July 1, 2006, shall be made without regard to IC 6-3-2-20, as added by this act.

(d) The department of state revenue may adopt temporary rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to implement IC 6-3-2-20, as added by this act. A temporary rule adopted under this SECTION expires on the earliest of the following:

(1) The date a rule is adopted by the department of state revenue under IC 4-22-2 that repeals, amends, or supersedes the temporary rule.

(2) The date another temporary rule is adopted under this SECTION that repeals, amends, or supersedes a previously adopted temporary rule.

(3) The date specified in the temporary rule.

(4) July 1, 2007.

(e) If the general assembly enacts more than one (1) law in the 2006 regular session of the general assembly that amends IC 6-3-1-3.5, the laws shall be read together to implement the policies enacted in each act.

SECTION 54. [EFFECTIVE JULY 1, 2006] **(a) As used in this SECTION, "home energy" has the meaning set forth in IC 6-2.5-5-16.5.**

(b) IC 6-2.5-4-5, as amended by this act, and IC 6-2.5-5-16.5, as added by this act, apply to transactions involving home energy that occur after June 30, 2006, and before July 1, 2007.

SECTION 55. [EFFECTIVE UPON PASSAGE] **The department of state revenue may adopt temporary rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to implement IC 6-2.3-1-3.5, IC 6-2.3-3-11, and IC 6-2.3-5.5, all as added by this act, IC 6-2.5-4-5, as amended by this act, and IC 6-2.5-5-16.5, as added by this act. A temporary rule adopted under this SECTION expires on the earliest of the following:**

(1) The date a rule is adopted by the department of state revenue under IC 4-22-2 that repeals, amends, or supersedes the temporary rule.

(2) The date another temporary rule is adopted under this SECTION that repeals, amends, or supersedes a previously adopted temporary rule.

(3) The date specified in the temporary rule.

(4) July 1, 2007.

SECTION 56. [EFFECTIVE JANUARY 1, 2007] **IC 6-3-2-2, as amended by this act, applies to taxable years beginning after December 31, 2006.**

SECTION 57. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 6-1.1-1, IC 6-1.1-20.9, and IC 6-1.1-21 apply throughout this SECTION.**

(b) As used in this SECTION, "additional 2006 homestead credit" means the part of the homestead credit percentage exceeding twenty percent (20%) that is granted under IC 6-1.1-20.9-2, as amended by this act for 2006.

(c) A county auditor:

(1) may apply the entire amount of the additional 2006 homestead credit equally to all installments of property taxes first due from the taxpayer in 2006; or

(2) if application of the credit to the first installment would delay the delivery of tax statements more than thirty (30) days after the date that the tax statements would otherwise be mailed or transmitted, may issue revised tax statements

and apply the entire credit to the property tax due in a later installment.

IC 6-1.1-22.5-6 does not apply if the county auditor elects to proceed under subdivision (2). The department of local government finance may prescribe procedures to apply the additional 2006 homestead credit to tax statements. A county auditor shall comply with the procedures prescribed under this subsection.

(d) If a county implements this SECTION by mailing or transmitting a revised tax statement under subsection (c)(2), the county:

(1) shall prominently include an instruction in the tax statement or on a separate insert included with the tax statement that assists the recipient of the statement in discovering that the amount payable in the second installment is less than the amount specified in the previous tax statement sent to the recipient and alerts the recipient not to make a payment that exceeds the amount due; and

(2) is entitled to an additional distribution equal to one dollar ($1) for each revised tax statement containing the statement described in subdivision (1) that is mailed or transmitted to a taxpayer or a mortgagee holding an escrow account for the taxpayer.

(e) The property tax replacement fund board shall provide for an additional distribution to taxing units from the property tax replacement fund to replace revenue lost to a county as the result of the granting of additional 2006 homestead credits and to reimburse counties for mailing or transmitting revised tax statements. The distribution shall be made before November 30, 2006, on the schedule determined by the property tax replacement fund board. A distribution described in this subsection is not subject to any law limiting the maximum amount that may be distributed under IC 6-1.1-21, including P.L.246-2005. Augmentation allowed (as defined in P.L.246-2005, SECTION 1) to make distributions described in this subsection. The amount distributed under this subsection is not included in the amount used to determine the minimum amount that must be distributed or maximum distribution that may not be exceeded under IC 6-1.1-21.

(f) This subsection applies to the part of any excessive property tax payment for property taxes first due and payable in 2006:

(1) equal to the amount of the taxpayer's additional 2006 homestead credit; and

(2) made before a tax statement or revised tax statement was mailed or transmitted for the taxpayer's homestead that reflected the taxpayer's reduced tax liability resulting from the taxpayer's additional 2006 homestead credit.

Notwithstanding IC 6-1.1-21-7, the amount of the taxpayer's excessive tax payment shall be applied first to the taxpayer's delinquent taxes (if any) in the manner provided in IC 6-1.1-23-5(b). Any remaining amount shall be retained and applied to the tax liability imposed on the homestead property in the immediately following year.

(g) This SECTION expires January 1, 2007.

SECTION 58. [EFFECTIVE JULY 1, 2005 (RETROACTIVE)]: **(a) There is appropriated to the department of education the greater of the following from the state general fund for the purposes of making the distributions for tuition support described in IC 21-3-1.7-9 (as effective before July 1, 2006) beginning July 1, 2005, and ending June 30, 2006:**

(1) Twenty million one hundred thousand dollars ($20,100,000).

(2) An amount sufficient to enable the department of education to make tuition support distributions after December 31, 2005, and before July 1, 2006, in accordance with IC 21-1-30 (as effective before July 1, 2006) and IC 21-3 (as effective before July 1, 2006) without requiring a reduction in tuition support distributions to school corporations in the first six (6) months of 2006.

The amount appropriated under this SECTION is in addition to the amount appropriated by P.L.246-2005, SECTION 9, to the department of education for distribution for tuition support but is subject to the terms and conditions specified in P.L.246-2005, SECTION 9, for the distribution for tuition support.

(b) The deficiency appropriation made by this SECTION is not subject to transfer to any other fund or subject to transfer, assignment, or reassignment for any other use or purpose by:

(1) the state board of finance, notwithstanding IC 4-9.1-1-7, IC 4-13-2-23, or any other law; or

(2) the budget agency, notwithstanding IC 4-12-1-12 or any other law.

(c) If the department of education determines that the provisions of IC 20-45-1-21, IC 20-45-3-5, and IC 20-45-3-6, all as amended by this act, will adversely affect the policy of taxpayer tax equalization as a result of the effects of an annual adjustment under IC 6-1.1-4-4.5 or other factors, the department of education may develop an alternative tuition support levy calculation that more closely complies with the taxpayer tax equalization policies embodied in the school funding formula for 2007. After review by the budget committee and approval by the budget agency, the department of local government finance shall adjust tax rates and tax levies in 2007, as necessary, to implement the alternative calculation developed under this subsection.

SECTION 59. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "OMB" refers to the office of management and budget established by IC 4-3-22-3.**

(b) The OMB shall develop a proposal under which the state and state employees may make monetary contributions to a health savings account, a deferred compensation account, or another tax advantaged savings program. The proposal must include at least the following elements:

(1) The proposal must contain estimates of future health care premium costs for state employees.

(2) The goal of the proposal must be to actuarially fund a major portion of the expected retirement health care premium costs for a typical state employee through contributions made throughout the entire career of the state employee.

(3) The proposal must make use of federal tax advantages to the greatest extent possible.

(4) The proposal may include a variety of contribution options under which the state and a state employee may make voluntary or mandatory contributions to the employee's retirement health care account.

(5) The proposal may explore the feasibility of:

(A) using the concept of "paid time off" (PTO) days in exchange for vacation days, personal days, holidays, and sick days; and

(B) permitting employees to exchange PTO days for contributions to the employee's retirement health care account.

(6) The proposal may include estimates of the monetary savings of the following:

(A) Reduced overtime expense.

(B) Savings from employee turnover.

(7) For an employee who has already served most of the employee's career in public service, the proposal must include a transition program that provides a retirement health care funding mechanism under which the employee would make contributions for the remainder of the employee's career that would be supplemented by the state in order to provide a benefit similar to the benefit that will be provided by the long term funding plan.

(c) The OMB shall present the proposal required by this SECTION and any other findings and recommendations to the budget committee before November 1, 2006.

SECTION 60. **An emergency is declared for this act.**

(Reference is to EHB 1001 as reprinted March 1, 2006, and as amended by the committee report of the committee of one adopted March 1, 2006.)

ESPICH	KENLEY
CRAWFORD	HUME
House Conferees	Senate Conferees

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

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 6:30 p p.m. with the Speaker in the Chair.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
EHB 1362–1; filed March 14, 2006, at 5:48 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 1362 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 36-1-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. "Clerk" means:

(1) clerk of the circuit court, for a county;
(2) county auditor, for a board of county commissioners or county council;
(3) clerk of the city-county council, for a consolidated city;
(4) city clerk, for a second class city;
(5) clerk-treasurer, for a third class city; ~~or~~
(6) clerk-treasurer, for a town; **or**
(7) chief executive officer of a political subdivision not described in subdivisions (1) through (6).

SECTION 2. IC 36-1-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. "Fiscal body" means:

(1) county council, for a county not having a consolidated city;
(2) city-county council, for a consolidated city or county having a consolidated city;
(3) common council, for a city other than a consolidated city;
(4) town council, for a town;
(5) township board, for a township; ~~or~~
(6) governing body or budget approval body, for any other political subdivision **that has a governing body or budget approval body; or**
(7) chief executive officer of any other political subdivision that does not have a governing body or budget approval body.

SECTION 3. IC 36-1-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. "Legislative body" means **the:**

(1) board of county commissioners, for a county not subject to IC 36-2-3.5 or IC 36-3-1;
(2) county council, for a county subject to IC 36-2-3.5;
(3) city-county council, for a consolidated city or county having a consolidated city;
(4) common council, for a city other than a consolidated city;
(5) town council, for a town; ~~or~~
(6) township board, for a township;
(7) governing body of any other political subdivision that has a governing body; or
(8) chief executive officer of any other political subdivision that does not have a governing body.

SECTION 4. IC 36-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

ARTICLE 1.5. GOVERNMENT MODERNIZATION

Chapter 1. General Provisions

Sec. 1. The purpose of this article is to do the following:

(1) Grant broad powers to enable political subdivisions to operate more efficiently by eliminating restrictions under existing law that:
(A) impede the economy of operation of;
(B) interfere with the ease of administration of;
(C) inhibit cooperation among; and
(D) thwart better government by;
political subdivisions.
(2) Encourage efficiency by and cooperation among political subdivisions to:
(A) reduce reliance on property taxes; and
(B) enhance the ability of political subdivisions to provide critical and necessary services.
(3) Strengthen the financial condition of state government.

Sec. 2. This article contains full and complete authority for the following:

(1) Reorganization of political subdivisions.
(2) Exercise of governmental functions under a cooperative agreement under this article.
(3) Transfer of responsibilities between offices and officers under this article.

Sec. 3. Except as provided in this article, no law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by a political subdivision or any officer, department, agency, or instrumentality of the state or a political subdivision is required for political subdivisions to:

(1) reorganize;
(2) enter into or exercise governmental functions under a cooperative agreement; or
(3) transfer responsibilities between offices and officers;
under this article.

Sec. 4. A political subdivision may exercise the powers granted under this article to reorganize or enter into cooperative agreements without complying with the provisions of any other law, statute, or rule.

Sec. 5. This article shall be liberally construed to effect the purposes of this article.

Sec. 6. Except as otherwise specifically provided by law, to the extent the provisions of this article are inconsistent with the provisions of any other general, special, or local law, the provisions of this article are controlling, and compliance with this article shall be treated as compliance with the conflicting law.

Sec. 7. This article does not prohibit the:

(1) reorganization of one (1) or more political subdivisions;
(2) exercise of governmental functions under an interlocal cooperation agreement or a cooperative agreement; or
(3) transfer of responsibilities between offices and officers;
under another law that is not included in this article.

Sec. 8. More than one (1) resolution permitted under this article may be consolidated into a combined resolution.

Sec. 9. Political subdivisions and reorganization committees acting under this article are subject to IC 5-14-1.5 (open door law) and IC 5-14-3 (public records law).

Chapter 2. Definitions

Sec. 1. Except as provided in section 4 of this chapter, the definitions in IC 3-5-2 and IC 36-1-2 apply throughout this article.

Sec. 2. The definitions in this chapter apply throughout this article.

Sec. 3. "Plan of reorganization" refers to a plan of reorganization approved by the legislative body of each reorganizing political subdivision under this article.

Sec. 4. "Political subdivision" has the meaning set forth in IC 36-1-2, except that the term does not include a local hospital authority or corporation.

Sec. 5. "Reorganization" means a change in the structure or administration of a political subdivision described in IC 36-1.5-4-3 and IC 36-1.5-4-4.

Sec. 6. "Reorganization committee" refers to a committee established under this article to assist reorganizing political subdivisions with developing a plan of reorganization.

Sec. 7. "Reorganized political subdivision" means the political subdivision that is the successor to the reorganizing political subdivisions participating in a reorganization.

Sec. 8. "Reorganizing political subdivision" refers to a political subdivision in which:

(1) a resolution has been adopted under IC 36-1.5-4-10; or
(2) a petition has been filed under IC 36-1.5-4-11.

Chapter 3. Adjustment of Maximum Permissible Levies, Tax Rates, and Budgets

Sec. 1. A certified copy of an ordinance or a resolution, including any incorporated agreement, that is adopted under this

article must be submitted to the department of local government finance.

Sec. 2. The department of local government finance may take an action under this chapter in the manner prescribed by the department of local government finance in its rules adopted under IC 4-22-2.

Sec. 3. A political subdivision may petition for judicial review of a final determination of the department of local government finance under this chapter. The petition must be filed in the tax court not more than forty-five (45) days after the department of local government finance enters its order under this chapter.

Sec. 4. Subject to this chapter, the department of local government finance shall adjust the maximum permissible property tax levies, maximum permissible property tax rates, and budgets of political subdivisions that enter into a reorganization under this article as the department of local government finance determines necessary to do the following:

(1) Eliminate double taxation by different political subdivisions for services or goods provided under this article.

(2) Eliminate any excess by which the amount of property taxes imposed by a political subdivision exceeds the amount necessary to pay for services or goods provided under this article.

(3) Restore taxing powers of a political subdivision after the termination of a reorganization under this article that are necessary to fund governmental services to the individuals and entities served by the political subdivision.

(4) Restore taxing powers of a political subdivision after the withdrawal of a party from a reorganization under this article that are necessary to fund governmental services to the individuals and entities served by the political subdivision.

Sec. 5. The department shall establish a formula for adjusting maximum permissible property tax levies, maximum permissible property tax rates, and budgets under this chapter that permits a political subdivision (or a successor political subdivision) that realizes a:

(1) savings to its taxpayers; or

(2) reduction in the reasonably foreseeable expenses that would otherwise be incurred by its taxpayers;

through a reorganization under this article to continue to levy part of the realized savings or reduction. The adjustment under this section may not exceed fifty percent (50%) of the savings or reduction realized in the first full year of operation after the reorganization is implemented, as determined by the department of local government finance.

Chapter 4. Reorganization by Referendum

Sec. 1. (a) Any of the following may reorganize under this chapter:

(1) Two (2) or more counties. A county reorganizing under this subdivision must be adjacent to at least one (1) other county participating in the reorganization.

(2) Two (2) or more townships located entirely within the same county. A township reorganizing under this subdivision must be adjacent to at least one (1) other township participating in the reorganization.

(3) Two (2) or more municipalities. A municipality reorganizing under this subdivision must be adjacent to at least one (1) other municipality participating in the reorganization.

(4) Two (2) or more school corporations. A school corporation reorganizing under this subdivision must be adjacent to at least one (1) other school corporation participating in the reorganization.

(5) Two (2) or more municipal corporations, other than a unit or a school corporation, that have substantially equivalent powers. A municipal corporation reorganizing under this subdivision must be adjacent to at least one (1) other municipal corporation participating in the reorganization.

(6) Two (2) or more special taxing districts that are adjacent to at least one (1) other special taxing district participating in the reorganization.

(7) A township and a municipality that is located in any part of the same township.

(8) A county and one (1) or more townships that are located in the county.

(9) A municipality and a county that does not contain a consolidated city.

(10) A school corporation and a county or municipality in which a majority of the students of the school corporation have legal settlement (as defined by IC 20-18-2-11).

(11) A municipal corporation, other than a unit or a school corporation, and a county or municipality in which a majority of the population of the municipal corporation resides.

(b) If a political subdivision reorganizes under this article with one (1) or more other political subdivisions:

(1) any political subdivisions that did not participate in the public question on the reorganization are not reorganized under this article;

(2) the reorganization affects only those political subdivisions in which the reorganization is approved as specified in this article; and

(3) the reorganization does not affect the rights, powers, and duties of any political subdivisions in the county in which the reorganization is not approved as specified in this article.

Sec. 2. For purposes of this chapter, two (2) political subdivisions may not be treated as adjacent if the political subdivisions are connected by a strip of land that is less than one hundred fifty (150) feet wide.

Sec. 3. Political subdivisions described in section 1 of this chapter may participate under this chapter in any of the following types of reorganization:

(1) Consolidation of the participating political subdivisions into a single new political subdivision.

(2) Consolidation of the participating political subdivisions into one (1) of the participating political subdivisions.

Sec. 4. As part of a reorganization in a finally approved plan of reorganization, one (1) or more of the reorganizing political subdivisions or the reorganized political subdivision may do the following:

(1) Adjust any of its boundaries.

(2) Establish a joint service area with another political subdivision.

(3) Transfer the functions of an office to another office.

(4) Provide for a legislative body, an executive, or a fiscal body of the reorganized political subdivision to exercise the powers of a legislative body, an executive, or a fiscal body of a reorganizing political subdivision.

(5) Change the name of the political subdivision or select a new name.

Sec. 5. (a) Except as provided in subsection (b), a reorganization approved under this chapter takes effect when all of the following have occurred:

(1) The later of:

(A) the date that a copy of a joint certification from the county election board in each county in which reorganizing political subdivisions are located that indicates that:

(i) the reorganization has been approved by the voters of each reorganizing political subdivision; or

(ii) in the case of a reorganization described in section 1(a)(9) of this chapter, the reorganization has been approved as set forth in section 32(b) of this chapter;

is recorded as required by section 31 of this chapter; or

(B) the date specified in the finally adopted plan of reorganization.

(2) The appointed or elected officers of the reorganized political subdivision are elected (as prescribed by section 36 of this chapter) or appointed and qualified, if:

(A) the reorganized political subdivision is a new political subdivision and reorganizing political subdivisions are not being consolidated into one (1) of the reorganizing political subdivisions;

(B) the reorganized political subdivision will have

different boundaries than any of the reorganizing political subdivisions;

(C) the reorganized political subdivision will have different appointment or election districts than any of the reorganizing political subdivisions; or

(D) the finally adopted plan of reorganization requires new appointed or elected officers before the reorganization becomes effective.

(b) A reorganization approved under this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. A consolidation that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

Sec. 6. When a reorganization under this chapter is effective:

(1) all of the participating political subdivisions, except the reorganized political subdivision, cease to exist;

(2) unless the plan of reorganization provides for the continuation of the term of office, the term of each of the elected offices of each of the reorganizing political subdivisions is terminated;

(3) if the plan of reorganization transfers the responsibilities of any office to another office, the office from which the responsibilities were transferred is abolished;

(4) the executives, legislative bodies, and fiscal bodies of the reorganizing political subdivisions (other than any reorganizing political subdivision that is treated under the plan of reorganization as the successor reorganized political subdivision) are abolished, and the responsibilities of the executives, legislative bodies, and fiscal bodies are transferred to the executive, legislative body, and fiscal body of the reorganized political subdivision; and

(5) the property and liabilities of the reorganizing political subdivisions become the property and liabilities of the reorganized political subdivision, subject to section 40 of this chapter.

Sec. 7. In the year before the year in which the participating political subdivisions are reorganized under this chapter:

(1) the fiscal bodies of the reorganizing political subdivisions shall, in the manner provided by IC 6-1.1-17, adopt tax levies, tax rates, and a budget for the reorganized political subdivision either through the adoption of substantially identical resolutions adopted by each of the fiscal bodies or, if authorized in the plan of reorganization, through a joint board established under an agreement of the fiscal bodies on which the members of each of the fiscal bodies are represented; and

(2) if the reorganized political subdivision will have elected offices and different election districts than any of the reorganizing political subdivisions, the legislative bodies of the reorganizing political subdivisions shall establish the election districts either through the adoption of substantially identical resolutions adopted by each of the legislative bodies or, if authorized in the plan of reorganization, through a joint board established under an agreement of the legislative bodies on which the members of each of the legislative bodies are represented.

Sec. 8. The department of local government finance may prescribe forms for petitions, resolutions, certifications, and other writings required under this chapter. A petition, resolution, certification, or other writing related to a reorganization must be substantially in the form prescribed by the department of local government finance.

Sec. 9. A reorganization may be initiated by:

(1) adopting a resolution under section 10 of this chapter; or

(2) filing a petition under section 11 of this chapter.

Sec. 10. (a) The legislative body of a political subdivision may initiate a proposed reorganization under this chapter by adopting a resolution that:

(1) proposes a reorganization;

(2) names the political subdivisions that would be reorganized in the proposed reorganization; and

(3) only in the case of a proposed reorganization described in section 1(a)(9) of this chapter, states whether the vote on the public question regarding the reorganization shall be:

(A) conducted on a countywide basis under section 30(b) of this chapter, without a rejection threshold; or

(B) conducted on a countywide basis under section 30(b) of this chapter, with a rejection threshold.

(b) The clerk of the political subdivision adopting the resolution shall certify the resolution to the clerk of each political subdivision named in the resolution.

Sec. 11. (a) The voters of a political subdivision may initiate a proposed reorganization by filing a written petition, substantially in the form prescribed by the department, with the clerk of the political subdivision that:

(1) proposes a reorganization; and

(2) names the political subdivisions that would be reorganized in the proposed reorganization.

(b) If the written petition is signed by at least five percent (5%) of the voters of the political subdivision, as determined by the vote cast in the political subdivision for secretary of state at the most recent general election, the clerk of the political subdivision shall certify the petition to the legislative body of the political subdivision.

Sec. 12. (a) If a petition is certified to the legislative body of a political subdivision under section 11 of this chapter, the legislative body shall conduct a public hearing on the proposed reorganization not sooner than five (5) days after publishing a notice of the public hearing under IC 5-3-1. Not more than thirty (30) days after the conclusion of the public hearing the legislative body shall adopt a resolution, substantially in the form prescribed by the department of local government finance, to do any of the following:

(1) Decline to participate in the proposed reorganization.

(2) Propose a reorganization with the political subdivisions named in the petition.

(3) Propose a reorganization with political subdivisions that differ in part or in whole from the political subdivisions named in the petition.

(b) In the case of a resolution adopted under this section proposing a reorganization described in section 1(a)(9) of this chapter, the resolution must also state whether the vote on the public question regarding the reorganization shall be:

(1) conducted on a countywide basis under section 30(b) of this chapter, without a rejection threshold; or

(2) conducted on a countywide basis under section 30(b) of this chapter, with a rejection threshold.

(c) The clerk of the political subdivision adopting a resolution proposing a reorganization under this section shall certify the resolution to the clerk of each political subdivision named in the resolution.

Sec. 13. (a) The legislative body of a political subdivision that receives a certified resolution under section 10 or 12 of this chapter may do any of the following:

(1) Adopt a resolution declining to participate in a proposed reorganization.

(2) Adopt a substantially identical resolution proposing to participate in a proposed reorganization with the political subdivisions named in a resolution certified to the political subdivision.

(3) Adopt a resolution proposing to participate in a proposed reorganization with political subdivisions that differ in part or in whole from the political subdivisions named in a resolution certified to the political subdivision.

(b) In the case of a resolution adopted under this section proposing to participate in a proposed reorganization described in section 1(a)(9) of this chapter, the resolution must also state whether the vote on the public question regarding the reorganization shall be:

(1) conducted on a countywide basis under section 30(b) of this chapter, without a rejection threshold; or

(2) conducted on a countywide basis under section 30(b) of this chapter, with a rejection threshold.

(c) The clerk of the political subdivision adopting a resolution proposing a reorganization under this section shall certify the resolution to the clerk of each political subdivision named in the resolution.

Sec. 14. The legislative body of a political subdivision may revise a resolution certified under section 10, 12, or 13 of this chapter by adding or deleting proposed parties to the reorganization until all of the political subdivisions named in the resolution have adopted substantially identical reorganization resolutions.

Sec. 15. Not later than thirty (30) days after the clerk of the last political subdivision to adopt a reorganization resolution under this chapter has certified the substantially identical resolution to all of the political subdivisions named in the resolution, the reorganizing political subdivisions shall appoint the number of individuals specified in section 16 of this chapter to serve on a reorganization committee to develop a plan of reorganization for the reorganizing political subdivisions.

Sec. 16. (a) Members shall be appointed to a reorganization committee as follows:

(1) In accordance with an agreement adopted by the reorganizing political subdivisions. An agreement under this subdivision must provide that not more than a simple majority of the members appointed by each political subdivision may be members of the same political party.

(2) If an agreement does not provide for the membership of a reorganization committee under this chapter, three (3) members shall be appointed by the executive of each political subdivision participating in the reorganization. Not more than two (2) of the members appointed by an executive of a political subdivision may be members of the same political party.

(b) The members of a reorganization committee serve at the pleasure of the appointing authority. The reorganization committee shall select a chairperson and any other officers that the reorganization committee determines necessary from the members of the reorganization committee.

(c) The members of a reorganization committee serve without compensation. The members, however, are entitled to reimbursement from the reorganizing political subdivisions for the necessary expenses incurred in the performance of their duties.

(d) The reorganizing political subdivisions shall provide necessary office space, supplies, and staff to the reorganization committee. The reorganizing political subdivisions may employ attorneys, accountants, consultants, and other professionals for the reorganization committee.

(e) Except as otherwise provided in an agreement adopted by the reorganizing political subdivisions, claims for expenditures for the reorganization committee shall be made to the fiscal officer for the reorganizing political subdivision with the largest population. The fiscal officer shall pay the necessary expenditures and obtain reimbursement from the reorganizing political subdivisions:

(1) in accordance with an agreement adopted by the reorganizing political subdivisions; or

(2) in the absence of an agreement, in proportion to the population of each reorganizing political subdivision.

Sec. 17. A reorganization committee may do the following:

(1) Adopt procedures governing the internal management of the reorganization committee.

(2) Conduct public hearings on the plan of reorganization as the reorganization committee determines necessary or appropriate.

(3) Review the books and records of any reorganizing political subdivision.

(4) Administer oaths.

(5) Issue and enforce subpoenas and discovery orders under IC 4-21.5.

Sec. 18. (a) A reorganization committee shall prepare a comprehensive plan of reorganization for the reorganizing political subdivisions. The plan of reorganization governs the actions, duties, and powers of the reorganized political subdivision that are not specified by law.

(b) The plan of reorganization must include at least the following:

(1) The name and a description of the reorganized political subdivision that will succeed the reorganizing political subdivisions.

(2) A description of the boundaries of the reorganized political subdivision.

(3) Subject to section 40 of this chapter, a description of the taxing areas in which taxes to retire obligations of the reorganizing political subdivisions will be imposed.

(4) A description of the membership of the legislative body, fiscal body, and executive of the reorganized political subdivision, a description of the election districts or appointment districts from which officers will be elected or appointed, and the manner in which the membership of each elected or appointed office will be elected or appointed.

(5) A description of the services to be offered by the reorganized political subdivision and the service areas in which the services will be offered.

(6) The disposition of the personnel, the agreements, the assets, and, subject to section 40 of this chapter, the liabilities of the reorganizing political subdivisions, including the terms and conditions upon which the transfer of property and personnel will be achieved.

(7) Any other matter that the:

(A) reorganization committee determines to be necessary or appropriate; or

(B) legislative bodies of the reorganizing political subdivisions require the reorganization committee;

to include in the plan of reorganization.

(8) In the case of a reorganization described in section 1(a)(9) of this chapter, if the legislative bodies of the reorganizing political subdivisions have specified that the vote on the public question regarding the reorganization shall be conducted on a countywide basis under section 30(b) of this chapter with a rejection threshold, the reorganization committee shall include in the reorganization plan a rejection threshold, specified as a percentage, that applies for purposes of section 32(b) of this chapter. The rejection threshold must be the same for each municipality that is a party to the proposed reorganization and to the county that is a party to the proposed reorganization.

(9) In the case of a reorganization described in section 1(a)(9) of this chapter, the reorganization committee shall determine and include in the reorganization plan the percentage of voters voting on the public question regarding the proposed reorganization who must vote, on a countywide basis, in favor of the proposed reorganization for the public question to be approved. This percentage is referred to in this chapter as the "countywide vote approval percentage". The countywide vote approval percentage must be greater than fifty percent (50%).

(c) In the case of a reorganization described in section 1(a)(9) of this chapter, the reorganization committee may not change the decision of the legislative bodies of the reorganizing political subdivisions regarding whether the vote on the public question regarding the reorganization shall be conducted on a countywide basis without a rejection threshold or with a rejection threshold.

(d) Upon completion of the plan of reorganization, the reorganization committee shall present the plan of reorganization to the legislative body of each of the reorganizing political subdivisions for adoption. The initial plan of reorganization must be submitted to the legislative body of each of the reorganizing political subdivisions not later than one (1) year after the clerk of the last political subdivision that adopts a reorganization resolution under this chapter has certified the resolution to all of the political subdivisions named in the resolution.

Sec. 19. The legislative body of each of the reorganizing political subdivisions shall provide for the following:

(1) Consideration of a plan of reorganization presented by a reorganization committee in the form of a resolution incorporating the plan of reorganization in full or by reference.

(2) Reading of the resolution incorporating the plan of reorganization in at least two (2) separate meetings of the legislative body of the political subdivision.

(3) Conducting a public hearing on the plan of reorganization:

(A) not sooner than five (5) days after notice of the public hearing is published under IC 5-3-1; and

(B) before the legislative body takes final action on the resolution to adopt the plan of reorganization.

Sec. 20. At a public hearing on a plan of reorganization conducted under section 19 of this chapter, or in a public meeting held not more than thirty (30) days after the public hearing concludes, a legislative body of a reorganizing political subdivision shall do one (1) of the following:

(1) Adopt the plan of reorganization as presented to the legislative body.

(2) Adopt the plan of reorganization with modifications.

(3) Reject the plan of reorganization and order a reorganization committee to submit a new plan of reorganization within thirty (30) days after the legislative body rejects the plan of reorganization.

Sec. 21. Any modifications in a plan of reorganization that are adopted by a legislative body of a reorganizing political subdivision must be adopted by the legislative body of each of the reorganizing political subdivisions before the modifications are effective.

Sec. 22. The legislative body of each reorganizing political subdivision shall take any of the actions described in section 20 of this chapter on a revised plan of reorganization submitted by a reorganization committee and each resolution modifying a plan of reorganization or revised plan of reorganization in the same manner as the legislative body may take action on the initially submitted plan of reorganization.

Sec. 23. The legislative body of a reorganizing political subdivision shall certify the legislative body's final action on a plan of reorganization or revised plan of reorganization, as modified by the legislative body, in the manner prescribed by the department of local government finance, to the following:

(1) The chair of the reorganization committee.

(2) The clerk of each reorganizing political subdivision.

(3) The county fiscal officer of each county in which a reorganizing political subdivision is located.

(4) The county recorder of each county in which a reorganizing political subdivision is located.

Sec. 23.5. The following apply if the legislative bodies of all political subdivisions that have been presented with a plan of reorganization under section 18(d) of this chapter have not adopted a plan of reorganization, either as presented by the reorganization committee or as modified by all of the political subdivisions, within one (1) year after the initial plan of reorganization is presented:

(1) Not later than one (1) month after the end of the one (1) year period in which the legislative bodies must adopt a plan of reorganization, the reorganization committee shall submit a final plan of reorganization to the legislative bodies of the political subdivisions.

(2) Not later than one (1) month after receiving the final plan of reorganization under subdivision (1), each of the legislative bodies must:

(A) hold a hearing on the final plan of reorganization; and

(B) adopt either a resolution approving the final plan of reorganization or a resolution rejecting the final plan of reorganization.

If a legislative body does not adopt a resolution under this subdivision within the one (1) month period, the failure to adopt a resolution is considered to be an approval of the final plan of reorganization.

(3) If a legislative body adopts a resolution approving the final plan of reorganization, the legislative body shall certify its approval under section 23 of this chapter.

(4) If any of the legislative bodies adopts a resolution rejecting the final plan of reorganization, the registered voters of a political subdivision in which the final plan of reorganization was rejected by a legislative body under subdivision (2) may submit a petition to the clerk of the circuit court approving the final plan of reorganization and requesting that a public question be held on the final plan of reorganization. The petition must be submitted not later than one hundred eighty (180) days after the legislative body voted to reject the final plan of reorganization. If the petition is signed by at least ten percent (10%) of the voters of the political subdivision, as determined by the vote cast in the political subdivision for secretary of state at the most recent general election:

(A) the political subdivision is considered to have approved the holding of the public question on the final plan of reorganization, notwithstanding the vote by the legislative body rejecting the final plan of reorganization; and

(B) the clerk of the circuit court shall certify approval of the final plan of the reorganization and the holding of the public question in the manner specified in section 23 of this chapter.

Sec. 24. The legislative body of the reorganizing political subdivision with the largest population shall provide for a certified copy of the plan of reorganization to be filed with each of the following at the same time certifications are made under section 23 of this chapter:

(1) The county recorder of each county in which a reorganizing political subdivision is located.

(2) The department of local government finance.

(3) If any of the reorganizing political subdivisions is a school corporation, the department of education.

(4) If the plan of reorganization changes any election district or abolishes an elected office, the clerk of the circuit court in each county affected by the election district or elected office.

Sec. 25. Each county recorder receiving a certification under section 23 of this chapter, either from the legislative body of a political subdivision or from a clerk of the circuit court after a petition process under section 23.5 of this chapter in a political subdivision, shall record the certification and the plan of reorganization in the records of the county recorder without charge.

Sec. 26. When a county recorder has received certifications under this chapter from all of the reorganizing political subdivisions, either from the legislative body of a political subdivision or from a clerk of the circuit court after a petition process under section 23.5 of this chapter in a political subdivision, the county recorder shall notify the county election board of each county in which a reorganizing political subdivision is located that a public question on a plan of reorganization is eligible to be placed on the ballot for consideration of the voters of each of the reorganizing political subdivisions or (in the case of a reorganization described in section 1(a)(9) of this chapter) for consideration by the voters of the entire county.

Sec. 27. After the county recorder of each county in which reorganizing political subdivisions are located has notified the county election board that a public question on a plan of reorganization is eligible to be placed on the ballot, the county election board shall place the public question on the ballot in accordance with IC 3-10-9 on the first regularly scheduled election that will occur in all of the precincts of the reorganizing political subdivisions at least sixty (60) days after the required notices are received.

Sec. 28. A public question under this chapter shall be placed on the ballot in all of the precincts that are located in the reorganizing political subdivisions in substantially the following form:

"Shall _____ (insert name of political subdivision) and _____ (insert name of political subdivision) reorganize as a single political subdivision?".

Sec. 29. IC 3 applies to the election at which a public question under this chapter is considered.

Sec. 30. (a) Except as provided in subsection (b), at the same time that election results are certified under IC 3, the circuit court clerk of each of the counties in which a public question under this chapter is on the ballot shall jointly issue, in the form prescribed by the state election board, a certificate declaring whether the public question is approved or rejected by a majority of the voters voting on the public question in each of the

reorganizing political subdivisions. In addition to any other requirements in IC 3 concerning filing of the certification, the certification shall be sent to each of the following:

(1) The clerk of each of the reorganizing political subdivisions.

(2) The county auditor of each county in which a reorganizing political subdivision is located.

(3) The county recorder of each county in which a reorganizing political subdivision is located.

(4) The state board of accounts.

(5) The department of local government finance.

(6) The department of state revenue.

(7) The budget agency.

(8) If any of the reorganizing political subdivisions is a school corporation, the department of education.

(b) In the case of a public question on a reorganization described in section 1(a)(9) of this chapter:

(1) the public question on a plan of reorganization shall be placed on the ballot for consideration by the voters of the entire county;

(2) the vote on the public question by the voters of the entire county shall be tabulated;

(3) if the legislative bodies of the reorganizing political subdivisions have agreed that the vote on the public question shall be conducted with a rejection threshold, the vote on the public question by the voters of:

(A) each reorganizing municipality; and

(B) the county (excluding the voters of the reorganizing municipalities);

shall be tabulated separately; and

(4) the circuit court clerk shall issue, in a form prescribed by the state election board, separate certificates regarding whether the public question is approved or rejected by the voters of:

(A) the entire county;

(B) each reorganizing municipality (if the legislative bodies of the reorganizing political subdivisions have agreed that the vote on the public question shall be conducted with a rejection threshold); and

(C) the county, excluding the voters of the reorganizing municipalities (if the legislative bodies of the reorganizing political subdivisions have agreed that the vote on the public question shall be conducted with a rejection threshold);

voting on the public question

Sec. 31. Each county recorder receiving a certification from a circuit court clerk under section 30 of this chapter shall file the certification without charge with the plan of reorganization recorded under section 25 of this chapter.

Sec. 32. (a) This subsection does not apply to a reorganization described in section 1(a)(9) of this chapter. A reorganization as specified in the plan of reorganization is approved if a majority of the voters in each reorganizing political subdivision voting on the public question approve the public question on the reorganization. The vote of voters of a reorganizing political subdivision (for example, a city) who also are voters in a second reorganizing political subdivision (for example, a township) that is geographically larger than the first political subdivision and that includes the territory of the first political subdivision shall be included only in the tally of votes for the first reorganizing political subdivision in which the voters reside.

(b) This subsection applies only to a reorganization described in section 1(a)(9) of this chapter. The reorganization is approved only if:

(1) the percentage of voters voting on the public question who vote, on a countywide basis, in favor of the proposed reorganization is at least equal to the countywide vote approval percentage specified in the final reorganization plan;

(2) if the legislative bodies of the reorganizing political subdivisions have agreed that the vote on the public question shall be conducted with a rejection threshold, the percentage of voters of the county (excluding the voters of the reorganizing municipalities) voting on the public question who vote against the reorganization is less than the rejection threshold included in the final reorganization plan; and

(3) if the legislative bodies of the reorganizing political subdivisions have agreed that the vote on the public question shall be conducted with a rejection threshold, the percentage of voters of each reorganizing municipality voting on the public question who vote against the reorganization is less than the rejection threshold included in the final reorganization plan.

If the reorganization is not approved, the reorganization is terminated. If the legislative bodies of the reorganizing political subdivisions have agreed that the vote in the public question shall be conducted with a rejection threshold, then in tabulating the votes under subdivisions (2) and (3), the vote of voters of a reorganizing municipality who also are voters in the county shall be included only in the tally of votes for the municipality in which the voters reside.

Sec. 33. Except in the case of a reorganization described in section 1(a)(9) of this chapter, if a reorganization is not approved by the majority of the voters in each reorganizing political subdivision voting on the public question, the reorganization is terminated. A political subdivision in which voters of the political subdivision approved the reorganization may continue with a reorganization with another political subdivision in which the reorganization was approved only if a new plan of reorganization is approved by the voters of each political subdivision in the manner provided by this chapter. The reorganization committee shall adopt a plan to specify how matters related to the termination of the reorganization shall be handled.

Sec. 34. (a) This section applies if:

(1) in the case of a reorganization that is not described in section 1(a)(9) of this chapter, the majority of the voters of each of the reorganizing political subdivisions voting on the public question approve the public question concerning the reorganization; or

(2) in the case of a reorganization described in section 1(a)(9) of this chapter, the reorganization is approved as set forth in section 32(b) of this chapter.

(b) The political subdivisions are reorganized in the form and under the conditions specified by the legislative bodies of the reorganizing political subdivisions in the plan of reorganization filed with the county recorder under this chapter.

Sec. 35. (a) This section applies to an initial election:

(1) of the members of a governing body or officers that are elected by the voters for a reorganized political subdivision that:

(A) is a town; and

(B) has town boundaries that encompass part of another town that was part of the reorganization;

(2) that is conducted before the reorganization takes effect; and

(3) to which IC 3-10-7-1 applies.

(b) The members of each precinct board shall be jointly appointed by the town election boards of each of the reorganizing political subdivisions.

Sec. 36. (a) This section applies if section 5 of this chapter requires an election for a reorganization to become effective.

(b) At the next:

(1) general election, if the reorganized political subdivision is not a municipality or a school corporation;

(2) municipal election, if the reorganized political subdivision is a municipality; or

(3) primary or general election, as specified in an election plan adopted in substantially identical resolutions by the legislative body of each of the participating political subdivisions if the reorganized political subdivision is a school corporation;

after the voters approve a reorganization, one (1) set of officers for the reorganized political subdivision having the combined population of the reorganizing political subdivisions shall be elected by the voters in the territory of the reorganized political subdivision as prescribed by statute.

(c) In the election described in subsection (b):

(1) one (1) member of the legislative body of the reorganized political subdivision shall be elected from each election district established by the reorganizing political subdivisions in substantially identical resolutions adopted by the legislative body of each of the reorganizing political subdivisions; and

(2) the total number of at large members shall be elected as prescribed by statute for the reorganized political subdivision.

(d) If appointed officers are required in the reorganized political subdivision, one (1) set of appointed officers shall be appointed for the reorganized political subdivision. The appointments shall be made as required by statute for the reorganized political subdivision. Any statute requiring an appointed officer to reside in the political subdivision where the appointed officer resides shall be treated as permitting the appointed officer to reside in any part of the territory of the reorganized political subdivision.

Sec. 37. The legislative bodies of the reorganizing political subdivisions and an adjacent political subdivision may change the boundaries of the reorganized political subdivision by adopting substantially identical resolutions clearly describing the boundary changes. The resolutions must be filed as required by law for a boundary change for the reorganized political subdivision and may not provide for a territory that is smaller than the territory permitted by law for any of the political subdivisions. If the law establishes additional procedures for the annexation or disannexation of the territory of a political subdivision, the political subdivisions changing boundaries must comply with the annexation or disannexation procedures required by law.

Sec. 38. A reorganized political subdivision has the powers granted by statute to a political subdivision of the same type as the reorganized political subdivision. However, if authorized by the plan of reorganization approved by the voters in a public question under this chapter, the reorganized political subdivision will exercise a power or have the officers or number of offices that a statute would have permitted any of the reorganizing political subdivisions to have.

Sec. 39. If a law does not permit the reorganized political subdivision to exercise generally throughout the territory of the reorganized political subdivision a power that any of the reorganizing political subdivisions had before the reorganization, the reorganized political subdivision may exercise the power outside the original territory of the reorganizing political subdivision only by following the laws applicable to the expansion of the service area of the reorganizing political subdivision.

Sec. 40. The following apply in the case of a reorganization under this article:

(1) Indebtedness that was incurred by a political subdivision before the reorganization:

(A) may not be imposed on taxpayers that were not responsible for payment of the indebtedness before the reorganization; and

(B) must be paid by the taxpayers that were responsible for payment of the indebtedness before the reorganization.

(2) Pension obligations existing as of the effective date of the reorganization:

(A) may not be imposed on taxpayers that were not responsible for payment of the pension obligations before the reorganization; and

(B) must be paid by the taxpayers that were responsible for payment of the pension obligations before the reorganization.

Sec. 41. (a) Notwithstanding any other law, an individual:

(1) who is employed as a firefighter or a police officer by a political subdivision that is reorganized under this article;

(2) who is a member of the 1977 fund before the effective date of the reorganization under this article; and

(3) who, after the reorganization, becomes an employee of the fire department, police department, or county police department of the reorganized political subdivision;

remains a member of the 1977 fund without being required to meet the requirements under IC 36-8-8-19 and IC 36-8-8-21. The firefighter or police officer shall receive credit for any service as a member of the 1977 fund before the reorganization to determine the firefighter's or police officer's eligibility for benefits under IC 36-8-8.

(b) Notwithstanding any other law, an individual:

(1) who is employed as a firefighter by a political subdivision that is reorganized under this article;

(2) who is a member of the 1937 fund before the effective date of the reorganization under this article; and

(3) who, after the reorganization, becomes an employee of the fire department of the reorganized political subdivision;

remains a member of the 1937 fund. The firefighter shall receive credit for any service as a member of the 1937 fund before the reorganization to determine the firefighter's eligibility for benefits under IC 36-8-7.

(c) Notwithstanding any other law, an individual:

(1) who is employed as a member of a county police department by a political subdivision that is reorganized under this article;

(2) who is a member of the sheriff's pension trust before the effective date of the reorganization under this article; and

(3) who, after the reorganization, becomes a law enforcement officer of the reorganized political subdivision;

remains a member of the sheriff's pension trust. The individual shall receive credit for any service as a member of the sheriff's pension trust before the reorganization to determine the individual's eligibility for benefits under IC 36-8-10.

(d) Notwithstanding any other law, an individual:

(1) who is employed as a police officer by a political subdivision that is reorganized under this article;

(2) who is a member of the 1925 fund or 1953 fund before the effective date of the reorganization under this article; and

(3) who, after the reorganization, becomes an employee of the police department or county police department of the reorganized political subdivision;

remains a member of the 1925 fund or 1953 fund. The police officer shall receive credit for any service as a member of the 1925 fund or 1953 fund before the reorganization to determine the police officer's eligibility for benefits under IC 36-8-6 or IC 36-8-7.5.

(e) Notwithstanding any other law, an individual:

(1) who is employed by a political subdivision that is reorganized under this article;

(2) who is a member of the pre-1996 account (as defined in IC 21-6.1-1-6.9) before the effective date of the reorganization under this article; and

(3) who, after the reorganization, becomes an employee of the reorganized political subdivision in a position that qualifies the individual for service credit in the Indiana state teachers' retirement fund;

remains a member of the pre-1996 account.

Sec. 42. If the functions of an elected office are transferred to another elected office by a reorganization under this article, any law, rule, or agreement that requires or permits an action by an elected officer shall be treated after the functions of the elected officer are transferred as referring to the elected officer to which the functions have been transferred by the reorganization.

Sec. 43. The legislative body or voters of a reorganized political subdivision may terminate a reorganization or restore one (1) or more of the reorganizing political subdivisions participating in a reorganization in the same manner that a reorganization may be initiated under this chapter. If the voters in the reorganized political subdivision approve a public question approving termination of the reorganization or restoration of a reorganizing political subdivision, the reorganized political subdivision shall terminate the reorganization and restore the reorganizing political subdivisions in the same manner as a reorganization is completed under this chapter.

Chapter 5. Cooperative Agreements and Transfers of Responsibilities

Sec. 1. Notwithstanding any other law, two (2) or more political subdivisions may enter into a cooperative agreement under this chapter by using the same procedures set forth in this article for the initiation and approval of a reorganization under this article. A cooperative agreement under this chapter may be initiated and approved only in the manner set forth in this article for the initiation and approval of a reorganization under this article.

Sec. 2. (a) A cooperative agreement under this chapter must provide at least for the following:

(1) Its duration.

(2) Its purpose.

(3) The manner of financing, staffing, and supplying any joint undertaking and of establishing and maintaining a budget for any joint undertaking that is the subject of the cooperative agreement.

(4) The methods that may be employed in accomplishing the partial or complete termination of the cooperative agreement and for disposing of property upon partial or complete termination of the cooperative agreement.

(5) The manner in which the cooperative agreement is to be administered.

(6) The manner of acquiring, holding, and disposing of real and personal property that is the subject of the cooperative agreement.

(b) A cooperative agreement may include any condition or term that is necessary or appropriate.

Sec. 3. (a) The cooperative agreement may transfer the functions of an employee or a department of a political subdivision, including an elected office, to another employee or department of any political subdivision that has entered into the cooperative agreement.

(b) The functions of an elected office may be transferred only to another elected office.

(c) The cooperative agreement may provide for the abolishment of an elected office that is not required by the Constitution of the State of Indiana.

Sec. 4. A political subdivision may enter into a cooperative agreement with an entity to share the services of an employee employed by any party to the agreement.

Sec. 5. A cooperative agreement may provide that a political subdivision:

(1) may appropriate and pledge any legally available revenues to the payment of the bonds, leases, or other obligations of another political subdivision that is a party to the cooperative agreement; and

(2) will appropriate legally available revenues for any other payment under the cooperative agreement;

if the political subdivision's fiscal body finds that it is necessary, desirable, and in the best interests of the residents of that political subdivision.

Sec. 6. (a) A cooperative agreement may not permit an entity or another instrumentality established to administer the cooperative agreement to take any action that at least one (1) of the parties to the cooperative agreement could not carry out on its own.

(b) A cooperative agreement may permit the transfer of money from one (1) fund of a political subdivision for a use authorized by the cooperative agreement.

Sec. 7. (a) A cooperative agreement transferring the functions of an elected office becomes effective only at the end of the term of the incumbent that holds the office.

(b) Any law, rule, or agreement that requires or permits an action by an employee or elected officer after the functions of the employee or elected officer are transferred shall be treated as referring to the employee or elected officer to which the functions have been transferred by the cooperative agreement.

Sec. 8. The department of local government finance shall adjust as necessary tax rates, tax levies, and budgets of political subdivisions that enter into a cooperative agreement under this chapter in the same manner as tax rates, tax levies, and budgets are adjusted under IC 36-1.5-3 for reorganizing political subdivisions.

SECTION 5. **An emergency is declared for this act.**

(Reference is to EHB 1362 as reprinted March 1, 2006.)

BUCK	RIEGSECKER
YOUNT	DELPH
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT
ESB 1–1; filed March 14, 2006, at 6:21 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 1 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 5-10.2-4-1.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.9. (a) An employee of a township who:**

(1) is a member of the public employees' retirement fund;

(2) has not attained vested status; and

(3) is terminated from employment with the township as the result of a consolidation under IC 36-3-1-6.1;

may make the election described in subsection (b).

(b) A member described in subsection (a) may elect, in the manner prescribed by the board of trustees of the public employees' retirement fund, not later than sixty (60) days after the date the member separates from township service, to receive from the public employees' retirement fund a distribution under subsection (c).

(c) This subsection applies to a member who elects under subsection (b) to receive a distribution. The member is entitled to receive a distribution that is equal to the present value, as determined by the board on the member's separation date, of the pension portion of the monthly retirement benefit computed as if the member had been:

(1) eligible for normal retirement; and

(2) at least sixty-five (65) years of age;

on the member's separation date, multiplied by a fraction. The numerator of the fraction is the number of months of creditable service earned by the member as an employee of the state before the member's separation date. The denominator of the fraction is one hundred twenty (120).

(d) To the extent permitted by the Internal Revenue Code, the distribution under subsection (c) must be made directly to any of the following designated by the terminating employee:

(1) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(2) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(3) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(4) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(e) Creditable service used in computing a distribution under this section may not be used to compute a normal or early retirement benefit under this article.

(f) The board of trustees of the public employees' retirement fund may adopt reasonable procedures and standards to implement this section.

(g) This section applies only if the public employees' retirement fund has received from the Internal Revenue Service any approvals or rulings that the board of trustees of the public employees' retirement fund considers necessary or appropriate.

SECTION 2. IC 5-10.3-6-8.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.8. (a) This section applies when employees of a township in particular departmental,**

occupational, or other definable classifications are terminated from employment with the township as a result of a consolidation under IC 36-3-1-6.1.

(b) The township executive shall request coverage under this section from the board whenever an employee of the township is terminated as described in subsection (a).

(c) The board must approve a request from the township executive under subsection (b) unless approval violates subsection (i), federal or state law, or the terms of the fund.

(d) As used in this section, "early retirement" means a member is eligible to retire with a reduced pension under IC 5-10.2-4-1, because the member:

(1) is at least fifty (50) years of age; and

(2) has at least fifteen (15) years of creditable service.

(e) As used in this section, "normal retirement" means a member is eligible to retire under IC 5-10.2-4-1, because:

(1) the member is at least sixty-five (65) years of age and has at least ten (10) years of creditable service;

(2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or

(3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five (55) years of age.

(f) The withdrawal of the employees described in subsection (a) from the fund is effective on a termination date established by the board. The board may not establish a termination date that occurs before all of the following have occurred:

(1) The township executive has requested coverage under this section and provided written notice of the following to the board:

(A) The intent of the township to terminate the employees from employment.

(B) The names of the terminated employees as of the date that the termination is to occur.

(2) The expiration of a thirty (30) day period following the filing of the notice with the board.

(3) The consolidated city complies with subsection (g).

(g) A member who is covered by subsection (f) and who, as of the date of the notice under subsection (f), is less than twenty-four (24) months from being eligible for normal or early retirement under IC 5-10.2-4-1 may elect to retire by purchasing the service credit needed for retirement under the following conditions:

(1) The consolidated city shall contribute to the fund an amount determined under IC 5-10.2-3-1.2 that is sufficient to pay the member's contributions required for the member's purchase of the service credit the member needs to retire.

(2) The maximum amount of creditable service that the consolidated city may purchase for a member under this subsection is twenty-four (24) months.

(3) The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service plus all other service for which the fund gives credit, including the creditable service purchased under this subsection.

(h) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny an employee permission to withdraw if the denial is necessary to achieve compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

SECTION 3. IC 6-1.1-18.5-10.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.4. (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 township, **a county containing a consolidated city,** or a fire protection district under IC 36-8-14.

(b) For purposes of computing the ad valorem property tax levy limit imposed on a township or a fire protection district under section 3 of this chapter, the township's, **the county's,** or the fire protection district's ad valorem property tax levy for a particular calendar year does not include that part of the levy imposed under IC 36-8-14.

SECTION 4. IC 6-1.1-18.5-21.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 21.5. The ad valorem property tax levy limits imposed by this chapter do not apply to ad valorem property taxes imposed by the consolidated fire department taxing district established in IC 36-3-1-6.4 to pay or fund the following:**

(1) Any indebtedness of a township, a fire protection territory, or an excluded city that is related to fire protection facilities or fire protection equipment and is assumed, defeased, paid, or refunded by the consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3.

(2) Any indebtedness issued by the consolidated city to pay for fire protection services, emergency services, or equipment, buildings, or land related to fire protection services or emergency medical services.

SECTION 5. IC 6-3.5-6-18.5, AS AMENDED BY P.L.234-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18.5. (a) This section applies to a county containing a consolidated city.

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

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

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

(2) Notwithstanding subdivision (1), for the calendar year beginning January 1, 1995, the distributive shares for each civil taxing unit in a county containing a consolidated city shall be not less than the following:

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

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

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

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

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

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

STEP FIVE: Determine the ratio of:

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

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

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

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

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

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

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

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

(c) Except with respect to Center Township, if a consolidated fire department is established under IC 36-3-1-6.1, beginning with the calendar year following the consolidation and for each year thereafter, a percentage of the revenues to be distributed as distributive shares during each year to a township that has consolidated its fire department shall instead be distributed to the consolidated fire department taxing district and deposited in the consolidated fire department taxing district fund. The percentage to be distributed to the consolidated fire department taxing district shall be equal to the percentage, if any, of the township's distributive shares received in the 2006 budget year that are used by the township for fire protection services.

(d) If Lawrence, Beech Grove, Southport, or Speedway consolidates its fire department into the consolidated fire department under IC 36-3-1-6.3, beginning with the calendar year following the consolidation and for each year thereafter, the monthly distributive share of county option income taxes distributed to Lawrence, Beech Grove, Southport, or Speedway, as applicable, shall be reduced by a percentage set forth in the ordinances adopted under IC 36-3-1-6.3, and those revenues shall instead be distributed to the consolidated fire department taxing district and deposited in the consolidated fire department taxing district fund.

SECTION 6. IC 8-1.5-5-32, AS ADDED BY SEA 71-2006, SECTION 1, AND HEA 1212-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. (a) This section applies to excluded cities and towns in a county containing a consolidated city.

(b) A municipality to which this section applies may withdraw from the district established by the consolidated city if the municipal legislative body adopts an ordinance withdrawing the municipality from the district. The municipal legislative body shall, at least thirty (30) days before the final vote on the ordinance, mail written notice of the meeting to the following:

(1) All owners of lots and parcels within the municipality that are subject to storm water user fees imposed in the district by the department of public works of the consolidated city.

(2) The department of public works of the consolidated city.

(c) An ordinance described in subsection (b) takes effect sixty (60) days after adoption by the municipal legislative body.

(d) In addition to the notice required by subsection (b), if a municipal legislative body adopts an ordinance under subsection (b), the municipal legislative body shall mail written notice of the withdrawal from the district to the department of public works of the consolidated city not more than thirty (30) days after the ordinance becomes effective.

(e) If on the date of a municipality's withdrawal from the district there are bonds outstanding that have been issued by the board of public works of the consolidated city, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the municipality bears to the assessed valuation of all property included in the district on the date one (1) day before the date of withdrawal, as shown in the most recent assessment for taxation before the date of withdrawal.

(f) If a municipal legislative body adopts an ordinance under subsection (b), the ~~district~~ **municipality** is entitled to receive the following:

(1) An annual lump sum payment equal to the total amount of property taxes paid and allocated to the district's flood debt service fund from all property taxpayers within the municipality, to the extent the property taxes are not necessary to pay the indebtedness owed by the municipality under subsection (e). A payment under this subdivision is required for property taxes assessed beginning on the January 1 preceding the effective date of the municipality's withdrawal from the district.

(2) The total amount of storm water user fees collected by the department of public works of the consolidated city from the lots and parcels in the municipality beginning on the January 1 preceding the effective date of the municipality's withdrawal from the district.

(g) Payments received under subsection (f):

(1) shall be deposited by the municipality in a dedicated fund; and

(2) may be used by the municipality only for purposes of storm water management in the municipality and may not be diverted, directly or indirectly, in any manner to any use other than the purposes of storm water management in the municipality.

SECTION 7. IC 8-22-3-11.6, AS ADDED BY P.L.227-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.6. (a) This section applies only to an airport authority established for a county having a consolidated city.

If:

(1) the legislative body of the consolidated city ~~and the governing body of the airport authority may adopt substantially similar ordinances providing that~~ **adopts an ordinance under IC 36-3-1-6.1 providing that:**

(A) the fire department of the airport authority is consolidated into the fire department of the consolidated city **created by IC 36-3-1-6.1;** and ~~that~~

(B) the fire department of the consolidated city shall provide fire protection services for the airport authority; ~~If ordinances are adopted under this section,~~

and the executive of the consolidated city approves the ordinance;

(2) the legislative body of the consolidated city adopts an ordinance under IC 36-3-1-6.1 adopting the transition plan and the executive of the consolidated city approves the ordinance; and

(3) the consolidation is approved in the public question under IC 36-3-1-6.1;

the consolidation shall take effect on ~~the date agreed to by the legislative body of the consolidated city and the governing body of~~

~~the airport authority in the ordinances.~~ **January 1, 2008, or a later effective date specified under IC 36-3-1-6.1.**

SECTION 8. IC 15-3-4-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 0.5. (a) This section applies to a township in a county having a consolidated city.**

(b) After December 31, 2006, the duties of a township trustee under this chapter shall be transferred to the consolidated city.

SECTION 9. IC 15-3-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) As used in this chapter, "detrimental plant" includes Canada thistle (cirsium arvense), Johnson grass, sorghum alumun (sorghum halrphense), bur cucumber (sicyos angulatus), shattercane (Sorghum bicolor [L.] Moench spp. drummondii [Steud.] deWet), and, in residential areas only, noxious weeds and rank vegetation. The term does not include agricultural crops.

(b) As used in this chapter, "fund" means:

(1) the township fund for a township in a county not having a consolidated city; or

(2) the appropriate fund of the consolidated city for a county having a consolidated city.

~~(b)~~ **(c)** As used in this chapter, "person" means an individual, an incorporated or unincorporated organization or association, a trustee or legal representative, the state, a political subdivision (as defined in IC 36-1-2-13), an agency of the state, or a political subdivision, or a group of those persons acting in concert.

(d) As used in this chapter, "township trustee" or "trustee" means:

(1) a township trustee for a township in a county not having a consolidated city; or

(2) the consolidated city for a township in a county having a consolidated city.

~~(c)~~ **(e)** A person owning or possessing real estate in Indiana shall destroy detrimental plants by cutting or mowing and, if necessary, by plowing, cultivating, or smothering, or by the use of chemicals in the bud stage of growth or earlier, to prevent those detrimental plants from maturing on any such real estate.

SECTION 10. IC 15-3-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) A township trustee who has reason to believe that detrimental plants may be on real estate may, after giving forty-eight (48) hours notice to the owner or person in possession of the property, enter the real estate to investigate.

(b) Except as provided in subsection (c), if the township trustee determines after investigating the property or by visual inspection without entering the property that a person has detrimental plants growing on real estate in ~~the~~ **a** township **that comprises all or a part of the township trustee's jurisdiction** that have not been destroyed as described in section 1 of this chapter, the ~~trustee of the township in which the real estate is located~~ **township trustee** shall notify, in writing, the owner or person in possession of the real estate to destroy the detrimental plants in a manner provided in section 1 of this chapter within five (5) days after the notice is given. If the detrimental plants are not destroyed as provided in section 1 of this chapter within five (5) days after notice is given, the trustee shall cause the detrimental plants to be destroyed in a manner seeming most practical to the trustee within three (3) additional days. The trustee may hire a person to destroy the detrimental plants. The trustee or the person employed to destroy the detrimental plants may enter upon the real estate where the detrimental plants are growing to destroy the detrimental plants, and are not civilly or criminally liable for damage to crops, livestock, or other property occurring while carrying out such work, except for gross negligence or willful or wanton destruction.

(c) If the county has established a county weed control board under IC 15-3-4.6 the township trustee may notify the county weed control board of the real estate containing detrimental plants, and the board shall either assume jurisdiction to control the detrimental plants or decline jurisdiction and refer the matter back to the township trustee. The county weed control board shall notify the township trustee of the board's decision.

(d) Notice required in subsection (a) or (b) may be given:

(1) by mail, using certified mail; or

(2) by personal service.

(e) Notice under subsection (d) is considered received by the owner or person in possession of the real estate:

(1) if sent by mail, on the earlier of:

(A) the date of signature of receipt of the mailing; or

(B) three (3) business days after the date of mailing; or

(2) if served personally, on the date of delivery.

SECTION 11. IC 15-3-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) The township trustee may pay for the chemicals, work, and labor performed in cutting or destroying detrimental plants under this chapter at a rate per hour to be fixed by the township trustee commensurate with local hourly wages.

(b) In all cases in which the infestation of the land with detrimental plants is so great and widespread as in the opinion of the trustee to render such cutting or eradication by hand methods impractical, the trustee shall engage the necessary power machinery or equipment and may pay for the work at a rate per hour fixed by the township trustee commensurate with the local hourly rate.

(c) When the work has been performed, the person doing the work shall file an itemized bill for the work ~~in the office of~~ **with** the trustee, ~~of the township,~~ and when the bill has been approved, the trustee shall pay the bill out of the ~~township~~ fund. The trustee ~~of the township~~ shall certify the cost or expense of the work, and the cost of the chemicals, adding to such bill twenty dollars ($20) per day for each day that the trustee or the trustee's agent supervises the performance of the services required under this chapter as compensation for services, with a description of the real estate on which the labor was performed.

(d) The certified statement of costs prepared under subsection (c) shall be mailed using certificate of mailing to, or personally served on, the owner or person possessing the real estate. The certified statement shall be mailed to the auditor of state for any real estate owned by the state or to the fiscal officer of another municipality (as defined in IC 5-11-1-16) for real estate owned by the municipality. The statement shall request that the person pay the cost of performing the service under subsection (c) to the township trustee.

(e) If the owner or person in possession of the property does not pay the amount set forth in the statement within ten (10) days after receiving the notice under subsection (d), the township trustee shall file a copy of the certified statement in the office of the county auditor of the county where the real estate is located **or, if the township is in a county having a consolidated city, the office of the city controller.**

(f) The auditor **or the city controller** shall place the amount claimed in the certified statement on the tax duplicate of the real estate. Except as provided in subsections (j) through (l), the amount claimed shall be collected as taxes are collected.

(g) After an amount described in subsection (f) is collected, the funds shall be deposited in the ~~trustee's township funds~~ **fund** for use at the discretion of the trustee.

(h) If there is no money available in **a** ~~the township~~ fund for that purpose, ~~the township board~~ upon finding an emergency exists:

(1) the township legislative body shall act under IC 36-6-6-14(b) or IC 36-6-6-15; **or**

(2) a consolidated city shall act under IC 36-3-4;

to borrow a sum of money sufficient to meet the emergency.

(i) The trustee, when submitting estimates to the ~~township board~~ **legislative body** for action, shall include in the estimates an item sufficient to cover those expenditures.

(j) This subsection applies to real estate owned by the state. The auditor of state shall issue a warrant to pay the amount set forth in the certified statement of costs for real estate owned by the state and shall charge the appropriate fund for the amount.

(k) This subsection applies to real estate owned by a municipality (as defined in IC 5-11-1-16) other than the township **or a consolidated city.** The fiscal officer of the municipality shall make the necessary appropriation from the appropriate fund to pay the township **or the consolidated city** the amount set forth in the certified statement of costs for real estate owned by the municipality.

(l) This subsection applies to real estate that is exempt from property taxation. The owner of the tax exempt real estate shall pay the amount set forth in the certified statement of costs for the tax

exempt real estate. If the owner of the tax exempt real estate fails to pay the amount required by this chapter, the owner is ineligible for the property tax exemption, and the department of local government finance shall deny the property tax exemption for the real estate.

SECTION 12. IC 15-3-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. Except as provided in section 3 of this chapter, the county auditor **or, if a township is in a county having a consolidated city, the city controller,** upon receiving and filing such trustee's certificate as prescribed in this chapter, shall immediately place said amounts on the tax duplicate of the county, and such amounts shall be due at the next tax paying time, and shall be collected for the proper township, ~~or~~ townships, **or consolidated city,** the same as other state, county, or township taxes are collected, including penalties, forfeitures, and sales, and when so collected shall be paid to the proper trustee and placed in the ~~township~~ fund.

SECTION 13. IC 15-3-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. (a) A person who:

(1) knowingly allows detrimental plants to grow and mature on land owned or possessed by the person;

(2) knowing of the existence of detrimental plants on land owned or possessed by the person, fails to cut them down or eradicate them by chemicals each year, as prescribed in this chapter;

(3) having charge of or control over any highway, knowingly allows detrimental plants to grow or mature on the right-of-way of the highway, or, knowing of the existence of the detrimental plants fails to cut them down or eradicate them by chemicals, as prescribed in this chapter;

(4) having charge of or control over the right-of-way of a railroad or interurban company, knowingly allows detrimental plants to grow and mature thereon, or knowing of the existence of the detrimental plants, fails to cut them down or eradicate them by chemicals, as prescribed in this chapter; or

(5) knowingly sells Canada thistle (cirsium arvense) seed;

commits a Class C infraction. Each day this section is violated constitutes a separate infraction.

(b) All judgments collected under this section shall be paid to the trustee and placed in the ~~trustee's township funds~~ **fund** for use at the discretion of the trustee **or the consolidated city.**

SECTION 14. IC 15-3-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 7. When the annual budget is prepared, a sufficient amount shall be appropriated to enable the township ~~officials~~ **trustee** to comply with this chapter.

SECTION 15. IC 15-3-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 8. (a) The Purdue University cooperative extension service shall provide technical assistance to township trustees for the control of detrimental plants.

(b) All law enforcement agencies having jurisdiction in a township **or a consolidated city** shall assist the township trustee in carrying out the duties imposed on the trustee under this chapter.

SECTION 16. IC 15-3-4.6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. The weed control board consists of the following members to be appointed by the authorizing body:

(1) One (1) **member appointed as follows:**

(A) In a county not having a consolidated city, a township trustee of **a township in** the county.

(B) In a county having a consolidated city, the director of the department of the consolidated city that is responsible for the destruction of detrimental plants described in this chapter or the director's designee.

(2) One (1) soil and water conservation district supervisor.

(3) A representative from the agricultural community of the county.

(4) A representative from the county highway department or an appointee of the county commissioners. ~~and~~

(5) A cooperative extension service agent from the county to serve in non-voting advisory capacity.

Each board member shall be appointed for a term of four (4) years. All vacancies in the membership of the board shall be filled for the unexpired term in the same manner as initial appointments. The board shall elect a chairman and a secretary. The members of the board are not entitled to receive any compensation, but are entitled to such traveling and other expenses as may be necessary in the discharge of their duties. The board may appoint an executive director and employ necessary technical, professional, and other assistants, and it shall fix the qualifications, duties, and salaries of these employees subject to the permission of the county council. The county highway supervisor and the soil and water conservation district supervisor or employee serving the county shall serve as inspectors for the board. They shall make periodic inspections and report their findings to the board and the executive director, if any.

SECTION 17. IC 15-3-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. The Indiana department of transportation, railroads, drainage districts, township boards, **except township boards of townships in a county having a consolidated city,** public utilities, and other public and quasi-public corporations shall, between July 1 and September 15, do anything possible to restrict the growth and seed production of all Johnson grass growing on lands for which they are responsible in a municipality or township of this state.

SECTION 18. IC 15-5-9-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 0.5. As used in this chapter, "assessor" means:**

(1) for a township located in a county not having a consolidated city:

(A) the township assessor elected under IC 36-6-5-1; or

(B) the township trustee who is required by law to act as the assessor for the township the trustee serves; or

(2) for a township located in a county having a consolidated city, the controller of the consolidated city or the controller's designee.

SECTION 19. IC 15-5-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) The ~~township~~ assessor shall make a diligent census as to the number of dogs owned, harbored, or kept by any person. A person owning or harboring a dog shall pay immediately to the ~~township~~ assessor a tax for each dog owned, harbored, or kept on the same premises, whether owned by that person or some other person, as follows:

(1) Except as provided in subsection (d), for each neutered dog, two dollars ($2).

(2) For each nonneutered dog, four dollars ($4).

(3) For each additional dog, six dollars ($6).

No dog under six (6) months of age is subject to any tax under this chapter. Whoever becomes the owner or harborer of a dog after the dog census by the ~~township~~ assessor or any owner or harborer of a dog for which for any reason the assessor failed to collect the tax, shall, within thirty (30) days after becoming the owner or harborer of a dog, apply to the assessor or the assessor's designee, pay the required fee, and procure a tag for the dog.

(b) Dogs kept in kennels for breeding, boarding, or training purposes or for sale shall not be assessed an individual license fee, but the owner or keeper shall pay a kennel license fee according to the following schedule:

(1) For a major kennel, consisting of fifteen (15) or more dogs, a fee of thirty dollars ($30).

(2) For a minor kennel, consisting of less than fifteen (15) dogs, a fee of twenty dollars ($20).

For each individual dog tag or kennel license issued under this chapter, the ~~township~~ assessor ~~(or trustee who collects the fee)~~ shall retain from the fee described in this section, an administrative fee of fifty cents ($0.50). Administrative fees collected by ~~the~~ **an** assessor **other than a township trustee** shall be deposited in the county general fund, and administrative fees collected by ~~the~~ **a township** trustee shall be deposited in the township general fund.

(c) Upon the payment of the license fee required by subsection (b), the ~~township~~ assessor shall deliver to the owner or keeper of the kennel a proper license together with a metallic tag for each dog in such kennel. The license shall be dated and numbered and shall bear the name of the county issuing it and the name and address of the owner of the kennel licensed, and a description of the breed, number, sex, and age of the dogs kept in such kennel. Any person becoming

the owner of a dog kennel shall, within thirty (30) days after becoming the owner, apply to the ~~township~~ assessor, township trustee, or assessor's designee and, upon payment of the required fee, procure a license and a metallic tag for all dogs kept in the kennel.

(d) A county council may increase the tax on neutered dogs imposed under subsection (a) from two dollars ($2) to three dollars ($3).

(e) ~~A township~~ **An** assessor ~~(or a township trustee who has the duties of a township assessor)~~ may designate one (1) or more licensed veterinarians or humane societies in the assessor's township **or county, as the case may be,** to collect the dog taxes and kennel license fees and issue the licenses under this chapter. A designee may retain seventy-five cents ($0.75) as a fee for that service and remit the balance of the money collected to the ~~township trustee~~ **assessor who designated the designee** by the tenth day of each month. As used in this subsection, "humane society" includes an animal shelter, animal control center, or other animal impounding facility that has as its purpose the humane treatment of animals.

SECTION 20. IC 15-5-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) The ~~township~~ assessor shall give to each person a receipt for the money paid the assessor, which shall be designated for dog tax. The receipt shall show the person's name who owns, harbors, or keeps the dog, the amount paid, and the number, description, and kind of dogs paid for, whether male or female, and the number of each. The receipt relieves the person owning, keeping, or harboring dogs for the current year, extending one (1) year from its date. The assessor shall keep a record of persons owning dogs subject to taxation and a record of the dogs paid for. The assessor shall keep a stub record or copy of the receipts given for money paid as dog tax. The stub record shall show the amount paid, the number of dogs, both male and female, paid for, and the person's name owning the dogs paid for. At the time when the receipt is issued to the person, the assessor shall give to the person a tag, which shall be attached to the collar worn by the dog.

(b) Before July 1 each year, the ~~township~~ assessor, **except an assessor in a county having a consolidated city,** shall turn over to the township trustee all the records kept by the assessor relating to the collecting and payment of dog taxes and kennel license fees, and a copy of all receipts given by the assessor to persons having paid dog taxes and kennel license fees, and all money received by the assessor as dog taxes, and all tags left in the assessor's possession. The assessor shall assess against each person who failed to pay to the assessor the amount of any license fee owed by the person, and the amount of the license fees shall be placed upon the tax duplicate by the county auditor and collected as taxes are collected.

(c) From July 1 each year until March 1 of the next year, the ~~township trustee~~ **assessor** shall receive any license fees subject to be paid under this chapter and issue any licenses under this chapter that may be received or issued by the ~~township~~ assessor under this chapter.

SECTION 21. IC 15-5-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. **This section does not apply to a township in a county having a consolidated city or to a consolidated city.** The ~~township~~ assessor shall, before July 1 each year, report the amount collected as dog tax and kennel license fees to the county auditor. The dog taxes and kennel license fees collected by ~~the~~ **an** assessor shall be turned over by the assessor to the township trustee of the assessor's township. The county auditor shall make a record of the same, and charge the amount stated in the report against the township trustee as receipts from the county dog fund.

SECTION 22. IC 15-5-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. (a) Each ~~township~~ assessor shall perform the duties imposed by this chapter. If a dog owner has failed to turn in a dog for taxation purposes, the assessor shall notify the owner that the assessor is listing the unpaid taxes within a period of ten (10) days, at which time the person will be assessed double the amount of taxes provided by this chapter unless the person owning the dog appears voluntarily within the ten (10) days and:

(1) proves to the satisfaction of the assessor that the person owned no such dog at the time the census was made; or

(2) makes an affidavit to be kept on file by the assessor to the effect that the failure to report a dog for taxation was not intentional and was not purposely omitted for the purpose of avoiding payment of taxes.

(b) Each assessor shall keep a complete list of all dogs subject to the tax under this chapter together with the names of their owners on record in the assessor's office at all times and available to the public. If any person shall acquire, own, harbor, or keep any dog after the assessor has completed the census, the person shall report the dog to and pay to the assessor the amount of dog tax as provided in this chapter and receive a receipt and tag for the payment. The receipt and tag exempts the person from further payment of dog tax on dogs described in the receipt for one (1) year from the date of the receipt.

SECTION 23. IC 15-5-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. ~~A township~~ **An** assessor **or** assessor's designee ~~or township trustee~~ who:

(1) fails to perform the duties imposed by this chapter; or

(2) fails to make a complete report within the time specified in this chapter;

commits a Class C infraction.

SECTION 24. IC 15-5-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. Every person liable to taxation in any township and residing in the township when listed for taxation shall make and subscribe to an oath to the ~~township~~ assessor in which the person states the number of dogs neutered or unneutered over the age of six (6) months and owned or harbored by the person.

SECTION 25. IC 15-5-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 8. (a) All money derived by the taxing of dogs under this chapter shall constitute a fund known as the township dog fund **or, in the case of a township located in a county having a consolidated city, the county dog fund** that the township trustee **or, in the case of a township located in a county having a consolidated city, the controller of the consolidated city,** shall use in the manner provided in this chapter for the payment of the following:

(1) Damages, less insurance proceeds, sustained by owners of the following stock, fowl, or game killed, maimed, or damaged by dogs:

(A) Sheep.
(B) Cattle.
(C) Horses.
(D) Swine.
(E) Goats.
(F) Mules.
(G) Chickens.
(H) Geese.
(I) Turkeys.
(J) Ducks.
(K) Guineas.
(L) Tame rabbits.
(M) Game birds and game animals held in captivity under authority of a game breeder's license issued by the department of natural resources.
(N) Bison.
(O) Farm raised cervidae.
(P) Ratitae.

(2) The expense of taking the Pasteur treatment for hydrophobia incurred by any person bitten by or exposed to a dog known to have hydrophobia. ~~within any township of Indiana.~~

(b) Any person requiring the treatment described in subsection (a)(2) may select the person's own physician.

(c) No damages shall be assessed or paid under this chapter on sheep except where individual damage exists or is shown.

(d) This subsection applies to a county whose legislative body has acted under this subsection. A county legislative body may designate by ordinance one (1) humane society located in that county to receive fifty cents ($0.50) from each dog tax payment collected under this chapter.

(e) A humane society designated under subsection (d) shall use the funds disbursed to the society to maintain an animal shelter.

(f) If a county does not designate a humane society to receive payments under subsection (d), those amounts remain in the township dog fund **or, in the case of a county having a consolidated city, the**

county dog fund.

SECTION 26. IC 15-5-9-9.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 9.1. (a) In order to qualify for payment for damages by a township trustee **or, in the case of a township located in a county having a consolidated city, the controller of the consolidated city** under this chapter, the owner of stock, fowl, or game listed in section 8(a)(1) of this chapter killed, maimed, or damaged by dogs shall do the following:

(1) Not more than seventy-two (72) hours after the time of the loss, notify one (1) of the following having jurisdiction in the location where the loss occurred:

(A) A law enforcement officer.

(B) An officer of a county or municipal animal control center, shelter, or similar impounding facility.

(2) Within twenty (20) days from the time of the loss, report the loss to the trustee ~~of his township~~ **of the owner's township or, in a township located in a county having a consolidated city, to the controller of the consolidated city** as follows:

(A) Under oath, the owner shall state:

(i) the number, age, and value of the stock, fowl, or game; and

(ii) the damages, less any insurance proceeds, sustained.

(B) In an affidavit, the owner must be joined by two (2) disinterested and reputable freeholders residing in the township in which the stock, fowl, or game were killed, maimed, or damaged. The affidavit must state that the freeholders are:

(i) disinterested; and

(ii) not related by blood or marriage to the claimant.

(C) No appraisement may exceed the actual cash value of the stock, fowl, or game. As it applies to ratitae, cash value is no more than the slaughter value.

(D) The owner shall provide verification of the loss by an officer under subdivision (1).

(E) No loss shall be paid for property owned by a claimant on the last property tax assessment date if the property was not reported by the owner for assessment purposes at that time.

(b) An officer who receives notice under subsection (a)(1) shall visit the scene of the loss, verify the loss in writing, and mark the animal so that the animal can support only one (1) claim under this chapter.

SECTION 27. IC 15-5-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 10. (a) The ~~trustees~~ **township trustee or the controller of the consolidated city** shall register and pay damages for all losses in the order in which the losses are reported.

(b) A person may not receive payment from the trustee **or the controller of the consolidated city** for stock, fowl, or game listed in section 8(a)(1) of this chapter:

(1) that are killed, maimed, or damaged by any dog or dogs owned or harbored by that person;

(2) for which the person received from another person an amount equal to the actual damages; or

(3) for which the owner has not complied with section 9.1 of this chapter.

(c) When rabies shall develop in any stock, fowl, or game listed in section 8(a)(1) of this chapter, however contracted, and when the existence of such disease shall be proven by:

(1) laboratory diagnosis, made in the laboratory of the state department of health, or some other laboratory maintained by state, county, or municipal funds; or

(2) affidavit of an attending legally qualified graduate veterinarian;

the owner of such animal with rabies shall be entitled to recover in the same amount and manner as provided in sections 8 and 9.1 of this chapter.

(d) Whenever any dog not accompanied by the dog's owner or owner's agent is suspected of having rabies and found roaming at large, and the dog dies or is destroyed on said account, the **township** trustee **or controller of the consolidated city** shall do the following:

(1) Remove or have removed the head of the dog.

(2) Pay from the township dog fund **or, in the case of a township located in a county having a consolidated city, the county dog fund,** the following:

(A) A reasonable fee for the removal of the dog's head.

(B) All charges for transporting the head to a laboratory maintained by state, county, or municipal funds. If no money is available in the **appropriate** dog fund, ~~of the township,~~ then such necessary fees shall be paid out of the township **general** fund **or, in the case of a township located in a county having a consolidated city, the county general fund,** without appropriations having been made.

(e) On the first Monday of March of each year, the township shall transfer the following to the county treasurer:

(1) Any funds in a township dog fund designated for a humane society under section 8 of this chapter.

(2) Any amount in a township dog fund exceeding three hundred dollars ($300) over and above orders drawn on the fund.

(f) The funds transferred to the county treasurer under subsection (e) shall be deposited in the county dog fund. On the second Monday in March of each year, the money in the county dog fund shall be distributed as follows:

(1) **Except for a township located in a county having a consolidated city,** among the townships of the county in which the orders drawn against the dog fund exceed the money on hand.

(2) To a humane society designated under section 8 of this chapter.

(g) If the funds in the county dog fund, after any distribution to a designated humane society, are insufficient to pay for all stock, fowl, or game listed in section 8(a)(1) of this chapter that are killed, maimed, or damaged by dogs ~~of all the townships~~ in the county, the distribution shall be made, **except in a township located in a county having a consolidated city,** in the ratio of the orders drawn against the dog fund of the townships and unpaid and unprovided for. The ratio shall be obtained from the report of the trustees of the townships made to the auditor of the county.

(h) The report under subsection (g) shall be made by each township trustee of the county upon the first Monday of March of each year and must show the following:

(1) All receipts into the dog fund of the township.

(2) All orders drawn against the township fund in the order in which the orders were drawn.

(i) If the funds in the dog fund of any township and the share of the county dog fund distributed to such township during any year **or, in the case of a township located in a county having a consolidated city, the county dog fund,** are insufficient to pay for all stock, fowl, and game listed in section 8(a)(1) of this chapter that are killed, maimed, or damaged by dogs in such township **or county, as the case may be,** during such year, any such losses registered and any orders drawn which are unpaid and unprovided for shall be paid out of the state dog account.

(j) If upon the first Monday in May of any year there is a surplus left of the county dog fund after provisions have been made for the payment of all stock, fowl, and game listed in section 8(a)(1) of this chapter that are killed, maimed, or damaged by dogs of all the townships of the county and the distribution to any designated humane society, the surplus shall be:

(1) paid to the auditor of state; and

(2) placed in a separate account of the general fund of the state treasury known as the state dog account.

SECTION 28. IC 15-5-9-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 11. On or before the first day of May of each year, the trustee of each township shall make a report in writing, to the county auditor, of the amount of all claims in ~~his~~ **the trustee's** township for livestock, fowls, or game which have been destroyed or damaged by dogs, and which claims have been filed before March 9, 1937, or which may be filed thereafter but have not been paid for lack of funds. On or before the second Monday in May of each year, the auditor of each county, **or, in a county having a consolidated city, the controller of the consolidated city,** shall make a report, in writing, to the auditor of state, in such form as the auditor of state shall prescribe, of the amount of all such claims in ~~his~~ **the** county which have been filed and

which have not been paid for lack of funds, and on or before the second Monday in July, the auditor of state shall issue ~~his~~ **the auditor's** warrant, payable to the auditor of each such county **or, in a county having a consolidated city, the controller of the consolidated city,** for the amount of the unpaid claims. The warrant shall be drawn on the state dog account. Upon the receipt of the money, the auditor of the county **or, in a county having a consolidated city, the controller of the consolidated city,** shall distribute the funds to the respective townships of ~~his~~ **the** county entitled thereto **or, in the case of a county having a consolidated city, to the appropriate fund of the consolidated city,** and the trustee of the township **or controller of a consolidated city** shall pay all unpaid claims of ~~his~~ **the** township **or county** in the order in which the claims were filed. If in any year there is not sufficient money in the state dog account to pay all of the claims, the auditor of state shall make such distribution, as near as practicable, in proportion to the aggregate value of livestock, fowls, or game for the destruction of which or the damage to which claims have been filed in the respective counties, and the county auditor, **except in a county having a consolidated city,** shall distribute the money so received to the several townships in the same proportion. All money in excess of fifty thousand dollars ($50,000) remaining in the state dog account, after such annual distribution shall have been made as hereinbefore provided, shall be distributed by the auditor of state in the manner following:

~~(a)~~ **(1)** One-half (1/2) of such excess or one hundred thousand dollars ($100,000) of such excess, whichever sum is the lesser, shall be distributed to Purdue University for the School of Veterinary Science and Medicine to be used solely for canine disease research.

~~(b)~~ **(2)** The balance remaining of such excess, after the distribution to Purdue University is made as hereinbefore provided, shall be distributed to the general fund of each county in direct proportion to the total amount of money paid into the dog account on the second Monday in May by the county prior to the distribution.

Of the funds returned to the respective counties the county may, with the approval of the county commissioners and the county council, construct dog pounds within said counties.

SECTION 29. IC 15-5-9-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 12. (a) At the time when the dog kennel license fee is paid to the ~~township~~ assessor, the assessor, at the time when the assessor issues a receipt, shall likewise furnish to the person a metal tag. The metal tag furnished shall be attached securely to the collar of the dog for which the license fee has been paid, and the collar, with the tag attached, shall be worn continuously by the dog.

(b) All license tags shall be of uniform design or color for any one (1) year, but the same color or shape shall not be used for any two (2) consecutive years. All tags shall be designed by the auditor of state, shall be paid for out of the state dog account, and shall be manufactured at the state prison in the same manner as motor vehicle registration plates. Each tag shall have a distinct number, and the number of the tag shall appear on the receipt issued to the owner of the dog.

(c) If any dog tag is lost, it shall be replaced without cost by the assessor upon application by the owner of the dog and upon the production of the receipt and a sworn statement of the facts regarding the loss of the tag. No license tag is transferable to another dog.

SECTION 30. IC 32-26-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) The trustee of each township, the county highway superintendent, the Indiana department of transportation, or other officer in control of the maintenance of a highway shall between January 1 and April 1 of each year, examine all hedges, live fences, natural growths along highways, and other obstructions described in section 1 of this chapter in their respective jurisdictions. **However, in a county having a consolidated city, the duties and obligations of a township trustee under this chapter are the responsibility of the consolidated city.** If there are hedges, live fences, other growths, or obstructions along the highways that have not been cut, trimmed down, and maintained in accordance with this chapter, the owner shall be given written notice to cut or trim the hedge or live fence and to burn the brush trimmed from the hedge or live fence and remove any other obstructions or growths.

(b) The notice required under subsection (a) must be served by reading the notice to the owner or by leaving a copy of the notice at the owner's usual place of residence.

(c) If the owner is not a resident of the township, county, or state where the hedge, live fence, or other obstructions or growth is located, the notice shall be served upon the owner's agent or tenant residing in the township, **county, or state.** If an agent or a tenant of the owner does not reside in the township, the notice shall be served by mailing a copy of the notice to the owner, directed to the owner's last known post office address.

(d) If the owner, agents, or tenants do not proceed to cut and trim the fences and burn the brush trimmed from the fences or remove any obstructions or growths within ten (10) days after notice is served, the township trustee, **consolidated city,** county highway superintendent, or Indiana department of transportation shall immediately:

(1) cause the fences to be cut and trimmed or obstructions or growths removed in accordance with this chapter; and

(2) burn the brush trimmed from the fences.

All expenses incurred under this subsection shall be assessed against and become a lien upon the land in the same manner as road taxes.

(e) The township trustee, **consolidated city,** county highway superintendent, or Indiana department of transportation having charge of the work performed under subsection (d) shall prepare an itemized statement of the total cost of the work of removing the obstructions or growths and shall sign and certify the statement to the county auditor of the county in which the land is located. The county auditor shall place the statement on the tax duplicates. The county treasurer shall collect the costs entered on the duplicates at the same time and in the same manner as road taxes are collected. The treasurer may not issue a receipt for road taxes unless the costs entered on the duplicates are paid in full at the same time the road taxes are paid. If the costs are not paid when due, the costs shall become delinquent, bear the same interest, be subject to the same penalties, and be collected at the same time and in the same manner as other unpaid and delinquent taxes.

SECTION 31. IC 32-26-9-0.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 0.6. As used in this chapter, "township" means:**

(1) a township in a county not having a consolidated city; or

(2) the consolidated city for a township located in a county having a consolidated city.

SECTION 32. IC 32-26-9-0.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 0.7. As used in this chapter, "township trustee" or "trustee" means:**

(1) a township trustee for a township in a county not having a consolidated city; or

(2) the consolidated city for a township in a county having a consolidated city.

SECTION 33. IC 32-26-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) A partition fence shall be built, rebuilt, and kept in repair at the cost of the property owners whose properties are enclosed or separated by the fences proportionately according to the number of rods or proportion of the fence the property owner owns along the line of the fence, whether the property owner's title is a fee simple or a life estate.

(b) If a property owner fails or refuses to compensate for building, rebuilding, or repairing the property owner's portion of a partition fence, another property owner who is interested in the fence, after having built, rebuilt, or repaired the property owner's portion of the fence, shall give to the defaulting property owner or the defaulting property owner's agent or tenant twenty (20) days notice to build, rebuild, or repair the defaulting property owner's portion of the fence. If the defaulting property owner or the defaulting property owner's agent or tenant fails to build, rebuild, or repair the fence within twenty (20) days, the complaining property owner shall notify the township trustee of the township in which the properties are located of the default.

(c) This subsection applies if the fence sought to be established, rebuilt, or repaired is on a township line. Unless disqualified under

subsection (h), the complaining property owner shall notify the trustee of the township in which the property of the complaining property owner is located of the default under subsection (b), and the trustee has jurisdiction in the matter.

(d) The township trustee who receives a complaint under this section shall:

(1) estimate the costs for building, rebuilding, or repairing the partition fence; and

(2) within a reasonable time after receiving the complaint, make out a statement and notify the defaulting property owner of the probable cost of building, rebuilding, or repairing the fence.

If twenty (20) days after receiving a notice under this subsection the defaulting property owner has not built, rebuilt, or repaired the fence, the trustee shall build or repair the fence. The trustee may use only the materials for the fences that are most commonly used by the farmers of the community.

(e) If the trustee ~~of a township~~ is disqualified to act under subsection (h), the trustee of an adjoining township who resides nearest to where the fence is located shall act on the complaint upon receiving a notice by a property owner who is interested in the fence.

(f) A lawful partition fence is any one (1) of the following that is sufficiently tight and strong to hold cattle, hogs, horses, mules, and sheep:

(1) A straight board and wire fence, a straight wire fence, a straight board fence, or a picket fence four (4) feet high.

(2) A straight rail fence four and one-half (4 1/2) feet high.

(3) A worm rail fence five (5) feet high.

(g) This subsection applies if a ditch or creek crosses the division line between two (2) property owners, causing additional expense in the maintenance of the part over the stream. If the property owners cannot agree upon the proportionate share of each property owner, the township trustee shall appoint three (3) disinterested citizens who shall apportion the partition fence to be built by each property owner.

(h) If a township trustee is:

(1) related to any of the interested property owners; or

(2) an interested property owner;

the ~~trustee of any other township who resides nearest to where the fence is located shall~~ **township shall appoint another official to** act under this chapter.

(i) This subsection applies if a ditch or creek forms, covers, or marks the dividing line or a part of the dividing line between the properties of separate and different property owners so that partition fences required under this chapter cannot be built and maintained on the dividing line. The partition fences shall be built and maintained under this chapter as near to the boundary line as is practical, and each property owner shall build a separate partition fence on the property owner's property and maintain the fence at the property owner's cost.

(j) This subsection applies where a partition fence required under this chapter crosses a ditch or creek and it is impracticable to construct or maintain that portion of the fence that crosses the ditch or creek as a stationary fence. Instead of the portion of the fence that would cross the ditch or creek, there shall be constructed, as a part of the partition fence, floodgates or other similar structures that are sufficiently high, tight, and strong to turn hogs, sheep, cattle, mules, and horses or other domestic animals. The floodgates or other similar structures shall be constructed to swing up in times of high water and to connect continuously with the partition fences.

(k) This subsection applies if the building and maintenance of the floodgates or other similar structure required under subsection (j) causes additional expenses and the property owners cannot agree upon the character of floodgates or other similar structure, or upon the proportionate share of the cost to be borne by each property owner. The township trustee, upon notice in writing from either property owner of a disagreement and the nature of the disagreement, shall appoint three (3) disinterested citizens of the township who shall determine the kind of structure and apportion the cost of the floodgate or other structure between the property owners, taking into consideration the parts of the fence being maintained by each property owner.

(l) The determination of a majority of the arbitrators of any matter or matters submitted to them under this section is final and binding on each property owner. The compensation of the arbitrators is two dollars ($2) each, which shall be paid by the property owners in the proportion each property owner is ordered to bear the expense of a gate or structure.

(m) This subsection applies if either or both of the property owners fail to construct or compensate for constructing the structure determined upon by the arbitrators in the proportion determined within thirty (30) days after the determination. The township trustee shall proceed at once to construct the gate or structure and collect the cost of the gate or structure, including the compensation of the arbitrators, from the defaulting property owner in the same manner as is provided for ordinary partition fences. The floodgate or other structure shall be repaired, rebuilt, or replaced according to the determination of the arbitrators.

SECTION 34. IC 34-30-2-58 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 58. IC 15-3-4-2 (Concerning township trustees, **a consolidated city,** or persons hired by them for the removal of detrimental plants upon another person's real property).

SECTION 35. IC 36-2-9.5-10, AS ADDED BY P.L.227-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) The county auditor shall examine and settle all accounts and demands that are:

(1) chargeable against the county or city; and

(2) not otherwise provided for by statute.

(b) The county auditor shall issue warrants on the county or city treasury for:

(1) sums of money settled and allowed by the county auditor;

(2) sums of money settled and allowed by another official; or

(3) settlements and allowances fixed by statute;

and shall make the warrants payable to the person entitled to payment. The warrants shall be numbered progressively, and the ~~controller~~ **county auditor** shall record the number, date, amount, payee, and purpose of issue of each warrant at the time of issuance.

SECTION 36. IC 36-2-9.5-13, AS ADDED BY P.L.227-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) The county auditor is responsible for the issuance of warrants for payments from county and city funds. **The signature of the county auditor may not be signed on, imprinted on, or affixed to any warrant for the payment of county or city funds without the approval of the county auditor.**

(b) The county auditor is responsible for:

(1) accounting;

(2) payroll, accounts payable, and accounts receivable;

(3) revenue and tax distributions; and

(4) maintenance of property records;

for all city and county departments, offices, and agencies.

(c) The county auditor may take actions necessary to carry out the functions under subsection (b) without the approval of the controller of the consolidated city.

SECTION 37. IC 36-2-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. (a) The county assessor shall perform the functions assigned by statute to the county assessor, including the following:

(1) Countywide equalization.

(2) Selection and maintenance of a countywide computer system.

(3) Certification of gross assessments to the county auditor.

(4) Discovery of omitted property.

(b) The county assessor shall perform the functions of an assessing official under IC 36-6-5-2 in a township with a township assessor-trustee if the township assessor-trustee:

(1) fails to make a report that is required by law;

(2) fails to deliver a property tax record to the appropriate officer or board;

(3) fails to deliver an assessment to the county assessor; or

(4) fails to perform any other assessing duty as required by statute or rule of the department of local government finance;

within the time period prescribed by statute or rule of the department or within a later time that is necessitated by reason of another official failing to perform the official's functions in a timely manner.

(c) A township with a township trustee-assessor may, with the consent of the township board, enter into an agreement with:

(1) the county assessor; or

(2) another township assessor in the county;
to perform any of the functions of an assessing official. A township trustee-assessor may not contract for the performance of any function for a period of time that extends beyond the completion of the township trustee-assessor's term of office.

(d) In a county having a consolidated city, the controller of the consolidated city or the controller's designee shall administer the dog tax and township dog fund as prescribed by IC 15-5-9.

SECTION 38. IC 36-3-1-6.1, AS AMENDED BY HEA 1040-2006, SECTION 560, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.1. (a) ~~This section applies only in a county containing a consolidated city. If the requirements of subsection (g) are satisfied,~~ **The legislative body of the consolidated city may adopt an ordinance approved by the mayor of the consolidated city to consolidate** the fire departments of the following ~~are consolidated~~ into the fire department of a consolidated city (referred to as "the consolidated fire department"):

(1) A township ~~for which the consolidation is approved by the township legislative body and trustee and the legislative body and mayor of the~~ **located in a county having a** consolidated city.

(2) Any fire protection territory established under IC 36-8-19 that is located in a ~~township described in subdivision (1).~~ **county having a consolidated city.**

(3) The territory in which an airport authority established for a consolidated city under IC 8-22-3 may provide fire protection services.

(b) The legislative body of the consolidated city may not adopt an ordinance under subsection (a) unless the legislative body first:

(1) holds a public hearing on the proposed consolidation; and

(2) determines that:

(A) reasonable and adequate fire protection can be provided through the consolidation; and

(B) the consolidation is in the public interest.

(c) If the requirements of subsections (a) and (b) are satisfied, the following shall be submitted to the voters in a public question:

(1) The question of whether the fire departments shall be consolidated.

(2) The following two (2) options regarding the governance structure that shall apply if the fire departments are consolidated:

(A) One (1) option must provide for a permanent metropolitan board of fire commissioners with the powers and duties specified in subsection (h) concerning the consolidated fire department.

(B) The other option must provide for the consolidated fire department to be under the control and authority of the mayor as provided by law. The choice of which option shall be implemented shall be determined by the voters in a public question under subsection (g).

(d) If the requirements of subsections (a) and (b) are satisfied, the mayor of the consolidated city shall prepare and disseminate to the citizens a proposed transition plan providing for a consolidated fire department to be under the control and authority of the mayor as provided by law.

(e) If the requirements of subsections (a) and (b) are satisfied, a metropolitan board of fire commissioners is established. The board consists of the following members:

(1) The mayor of the consolidated city, who shall serve as the board's chairperson.

(2) The nine (9) township trustees in the county containing a consolidated city. If a member serving under this subdivision ceases to be a township trustee, the new township trustee becomes a member of the board in place of the previous township trustee.

(3) Two (2) members of the legislative body of the consolidated city, who must be from different political parties, appointed by the president of the legislative body of the consolidated city.

At the board's first meeting, the members of the board shall elect a vice chairperson from among the township trustees serving on the board. Meetings of the board shall be called by the chairperson or by the vice chairperson and any two (2) other members. An affirmative vote of a majority of the members appointed to the board is required for the board to take final action. The members of the board may not receive a salary or per diem for participation on the board. The board shall prepare and disseminate a proposed transition plan providing that the board shall be a permanent body and have the powers and duties specified in subsection (h). The legislative body of the consolidated city shall provide personnel to staff the board. The legislative body shall appropriate sufficient funds to pay for attorneys hired or retained by the board. The board shall choose the attorneys that are hired or retained by the board. If the voters do not vote in favor of the board in the public question under subsection (g), the board expires June 1, 2007.

(f) If:

(1) before August 1, 2006, the legislative body adopts an ordinance under subsection (a);

(2) the mayor of the consolidated city approves the ordinance adopted under subsection (a); and

(3) the public question under subsection (g) on whether the fire department consolidation shall occur is approved;

the fire department consolidation becomes effective on January 1, 2008. However, notwithstanding any other statute, if the legislative body does not adopt an ordinance, approved by the mayor of the consolidated city, under subsection (a) before August 1, 2006, the effective date of the consolidation is not January 1, 2008, but is instead the date specified by the legislative body in the ordinance adopting the transition plan.

(g) If an ordinance providing for consolidation is adopted by the legislative body and approved by the mayor, the following public questions shall be placed on the ballot:

(1) A public question regarding approval of the fire department consolidation shall be placed on the ballot in the county (except in an excluded city) at the May 2007 primary election. The county election board shall specify the language of the public question. If the majority of the voters voting on the public question approve the fire department consolidation, the fire department consolidation becomes effective on January 1, 2008, or the later date specified by the legislative body. If a majority of the voters voting on the public question do not approve the fire department consolidation, the requirements of this subsection are not satisfied and none of the fire departments of the townships in the county or any fire protection territory in those townships may be consolidated into the fire department of the consolidated city. The county election board and the circuit court clerk of the county shall provide for and conduct the public question under this section. The public question under this subsection must be certified in accordance with IC 3-10-9-3 and shall be placed on the ballot in accordance with IC 3-10-9.

(2) A public question regarding which of the two (2) options described in subsections (c)(2) shall be implemented if the fire department consolidation is approved under subdivision (1) shall also be placed on the ballot in the county (except in an excluded city) at the May 2007 primary election. The county election board shall specify the language of the public question. If the majority of the voters voting on the public question approve the option described in subsection (c)(2)(A), the board shall be a permanent board with the powers specified in subsection (h). If the majority of the voters voting on the public question approve the option described in subsection (c)(2)(B), the consolidated fire department shall instead be under the control and authority of the mayor as provided by law. The county election board and the circuit court clerk of the county shall provide for and conduct the public question under this section. The public question under this subsection must be certified in accordance with IC 3-10-9-3 and shall be placed on the ballot in accordance with IC 3-10-9.

(h) Subject to approval of the voters in the public question under subsection (g)(2) if the fire departments are consolidated, the board established under subsection (e) and the executive of

the consolidated city have the following duties and responsibilities:

(1) The board:

(A) must approve any station closings in areas formerly served by township fire departments consolidated under this section; and

(B) shall approve a plan to integrate all merit positions and safety board positions into the consolidated fire department.

The board is not authorized to approve station closings within the fire special service district. The mayor of the consolidated city must approve all station closings within the fire special service district.

(2) The board shall oversee all assets of the consolidated fire department and reallocation of assets.

(3) The board must approve all equipment purchases for the consolidated fire department and all facility purchases for the consolidated fire department.

(4) The board shall nominate three (3) candidates for fire chief of the consolidated fire department. The mayor shall select the fire chief of the consolidated fire department from the nominated candidates.

(5) The board shall permanently have the authority to appoint one (1) member to the merit commission of the consolidated fire department. A member of the merit commission appointed under this subdivision shall replace a member appointed by the mayor of the consolidated city. Each member of the merit commission appointed under this subdivision shall serve a four (4) year term. Notwithstanding any other law, the mayor shall designate which of the mayor's appointees to the merit board is removed from the merit board and replaced by the initial member appointed under this subdivision.

(6) The controller of the consolidated city shall prepare a budget proposal for the consolidated fire department. After review and any modifications by the board, the controller shall submit the budget proposal to the legislative body of the consolidated city for approval.

(7) The board shall provide advice and make recommendations to the chief of the consolidated fire department regarding the operation of the consolidated fire department and the provision of emergency medical services.

(8) The board shall review labor agreements assumed or to be assumed by the consolidated city and make recommendations concerning labor agreements needed to integrate firefighters from all townships into the consolidated fire department.

(9) The board is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3.

(10) The board shall meet at least once each month.

(11) The board shall nominate ranking officers who shall be in charge of territory formerly served by township fire departments consolidated under this section.

(12) The board shall review and approve the annual capital plan of the consolidated fire department. However, the annual capital plan of the consolidated fire department is subject to approval of the legislative body of the consolidated city as part of the consolidated city's budget.

(13) The board shall study ISO ratings throughout the county.

(14) The legislative body of the consolidated city shall include funding in the consolidated city's budget that shall be used by the board to coordinate community education programs.

If the voters under subsection (c)(1) vote in favor of the board, the board is a permanent body and shall continue to exercise its powers and carry out its duties under this subsection.

(i) If voters in the public question under subsection (g)(2) approve a consolidated fire department under the control and authority of the mayor, the consolidated fire department shall be under the control and authority of the mayor as provided by law.

~~(b) If the requirements of subsection (g) are satisfied,~~ **(j) Except as provided in section 6.3 of this chapter, if a consolidated fire department is established under this section,** the consolidated fire department shall provide fire protection services within ~~an entity described in subsection (a)(1) or (a)(2) in which the requirements of subsection (g) are satisfied~~ **the consolidated fire department taxing district beginning** on ~~the date agreed to in the resolution of the township legislative body and the ordinance of the legislative body of the consolidated city.~~ **January 1, 2008, or the date specified under subsection (e) by the legislative body of the consolidated city.**

~~(c)~~ **(k) Except as otherwise provided,** if the ~~requirements of subsection (g) are satisfied and the~~ fire ~~department~~ **departments** of ~~an entity~~ **the entities** listed in subsection (a) ~~is~~ **are** consolidated into the fire department of the consolidated city, all of the property, equipment, records, rights, and contracts of the ~~department~~ **departments** consolidated into the fire department of the consolidated city are:

(1) transferred to; or

(2) assumed by;

the consolidated city on ~~the effective date of the consolidation. However, real property other than real property used as a fire station may be transferred only on terms mutually agreed to by the legislative body and mayor of the consolidated city and the trustee and legislative body of the township in which that real property is located.~~ **January 1, 2008, or the date specified under subsection (e) by the legislative body of the consolidated city. In the case of a building that was partially funded from sources other than taxes imposed for fire protection purposes, only that part of the building that was funded from taxes imposed for fire protection purposes and that is used by the township for fire protection purposes shall be transferred to the consolidated city. Any balance in a township's cumulative building and equipment fund for fire protection and related services established under IC 36-8-14 before January 1, 2008, shall not be transferred to the consolidated city but shall be transferred first to a dedicated township fund and used to pay pension obligations under the 1937 firefighters' pension fund, if the township has any unfunded liability for pension obligations for township firefighters under the 1937 firefighters' pension fund, and if any balance remains after that transfer for pension obligations, the remaining balance shall be transferred to any other cumulative fund or rainy day fund established by the township before January 1, 2008. The balances in any funds established by a township for any purpose are not transferred to the consolidated city. The Emergency Services Education Center in Wayne Township shall remain the property of Wayne Township. The Emergency Services Education Center and any debt related to the Emergency Services Education Center shall not be transferred to the consolidated city.**

~~(d)~~ **(l)** If ~~the requirements of subsection (g) are satisfied and~~ the fire ~~department~~ **departments** of ~~an entity~~ **the entities** listed in subsection (a) ~~is~~ **are** consolidated into the fire department of the consolidated city, the employees of the fire department consolidated into the fire department of the consolidated city cease employment with the department of the entity listed in subsection (a) and become employees of the consolidated fire department on ~~the effective date of the consolidation.~~ **January 1, 2008, or a later effective date of the consolidation specified by the legislative body of the consolidated city under subsection (e). However, an employee may not become an employee of the consolidated fire department under this subsection unless the employee has completed a criminal history background check.** The consolidated city shall assume all agreements with labor organizations that:

(1) are in effect on the effective date of the consolidation; and

(2) apply to employees of the department consolidated into the fire department of the consolidated city who become employees of the consolidated fire department.

~~(e)~~ **(m)** If ~~the requirements of subsection (g) are satisfied and~~ the fire ~~department~~ **departments** of ~~an entity~~ **the entities** listed in subsection (a) ~~is~~ **are** consolidated into the fire department of a consolidated city, the indebtedness related to fire protection ~~services~~ **facilities or fire protection equipment** incurred before the effective date of the consolidation by the entity or a building, holding, or leasing corporation on behalf of the entity whose fire department is consolidated into the consolidated fire department under subsection (a) shall ~~remain the debt of the entity and does not become and may~~

~~not~~ be assumed, **defeased, paid, or refunded** by the consolidated city **and may be paid from property taxes imposed by the consolidated fire department taxing district. Indebtedness related to fire protection operations (excluding indebtedness related to fire protection facilities or fire protection equipment) that is incurred before the effective date of the consolidation by the entity or a building, holding, or leasing corporation on behalf of the entity whose fire department is consolidated into the consolidated fire department under subsection (a) shall remain the debt of the entity and does not become and may not be assumed by the consolidated city. Notwithstanding any other law, to assume, defease, pay, or refund all or a part of the indebtedness related to fire protection facilities or fire protection equipment, the consolidated city is not required to comply with any other statutory procedures or approvals that apply when a unit incurs indebtedness. However, the consolidated city may not assume all or any part of the indebtedness that will cause the consolidated city to exceed the limitations on the amount of indebtedness that the consolidated city may incur. The rights of the trustee and the bondholders with respect to any:**

(1) bonds or other indebtedness; or

(2) bond resolution, trust agreement, or indenture, security agreement, purchase agreement, or other undertaking with respect to indebtedness;

remain the same, although the powers, duties, agreements, and liabilities of the entities listed in subsection (a) have been transferred to the consolidated city, and the consolidated city shall be considered to have assumed all of those powers, duties, agreements, and liabilities. ~~Indebtedness related to fire protection services that is incurred by the consolidated city before the effective date of the consolidation shall remain the debt of the consolidated city and property taxes levied to pay the debt may only be levied by the fire special service district.~~

~~(f)~~ **(n)** If ~~the requirements of subsection (g) are satisfied and~~ the fire ~~department~~ **departments** of ~~an entity~~ **the entities** listed in subsection (a) ~~is~~ **are** consolidated into the fire department of a consolidated city, the merit board and the merit system of the fire ~~department~~ **departments** that ~~is~~ **are** consolidated are dissolved on the effective date of the consolidation, and the duties of the merit board are transferred to and assumed by the merit board for the consolidated fire department on the effective date of the consolidation.

~~(g) A township legislative body, after approval by the township trustee, may adopt a resolution approving the consolidation of the township's fire department with the fire department of the consolidated city. A township legislative body may adopt a resolution under this subsection only after the township legislative body has held a public hearing concerning the proposed consolidation. The township legislative body shall hold the hearing not earlier than thirty (30) days after the date the resolution is introduced. The hearing shall be conducted in accordance with IC 5-14-1.5 and notice of the hearing shall be published in accordance with IC 5-3-1. If the township legislative body has adopted a resolution under this subsection, the township legislative body shall, after approval from the township trustee, forward the resolution to the legislative body of the consolidated city. If such a resolution is forwarded to the legislative body of the consolidated city and the legislative body of the consolidated city adopts an ordinance, approved by the mayor of the consolidated city, approving the consolidation of the fire department of the township into the fire department of the consolidated city, and the requirements of this subsection are satisfied. The consolidation shall take effect on the date agreed to by the township legislative body in its resolution and by the legislative body of the consolidated city in its ordinance approving the consolidation.~~

~~(h)~~ **(o)** The following apply if the ~~requirements of subsection (g) are satisfied.~~ **fire departments of the entities listed in subsection (a) are consolidated into the fire department of a consolidated city:**

~~(1) The consolidation of the fire department of that township is effective on the date agreed to by the township legislative body in the resolution and by the legislative body of the consolidated city in its ordinance approving the consolidation.~~

~~(2)~~ **(1)** Notwithstanding any other provision, a firefighter:

(A) who is a member of the 1977 fund before the effective date of a consolidation under this section; and

(B) who, after the consolidation, becomes an employee of the fire department of a consolidated city under this section;

remains a member of the 1977 fund without being required to meet the requirements under IC 36-8-8-19 and IC 36-8-8-21. The firefighter shall receive credit for any service as a member of the 1977 fund before the consolidation to determine the firefighter's eligibility for benefits under IC 36-8-8.

~~(3)~~ **(2)** Notwithstanding any other provision, a firefighter:

(A) who is a member of the 1937 fund before the effective date of a consolidation under this section; and

(B) who, after the consolidation, becomes an employee of the fire department of a consolidated city under this section;

remains a member of the 1937 fund. The firefighter shall receive credit for any service as a member of the 1937 fund before the consolidation to determine the firefighter's eligibility for benefits under IC 36-8-7.

~~(4) For property taxes first due and payable in the year in which the consolidation is effective, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5:~~

~~(A) is increased for the consolidated city by an amount equal to the maximum permissible ad valorem property tax levy in the year preceding the year in which the consolidation is effective for fire protection and related services by the township whose fire department is consolidated into the fire department of the consolidated city under this section; and~~

~~(B) is reduced for the township whose fire department is consolidated into the fire department of the consolidated city under this section by the amount equal to the maximum permissible ad valorem property tax levy in the year preceding the year in which the consolidation is effective for fire protection and related services for the township.~~

~~(5) The amount levied in the year preceding the year in which the consolidation is effective by the township whose fire department is consolidated into the fire department of the consolidated city for the township's cumulative building and equipment fund for fire protection and related services is transferred on the effective date of the consolidation to the consolidated city's cumulative building and equipment fund for fire protection and related services, which is hereby established. The consolidated city is exempted from the requirements of IC 36-8-14 and IC 6-1.1-41 regarding establishment of the cumulative building and equipment fund for fire protection and related services.~~

~~(6)~~ **(3)** The local boards for the 1937 firefighters' pension fund and the 1977 police officers' and firefighters' pension and disability fund of the ~~township~~ **entities listed in subsection (a)** are dissolved, and their services are terminated not later than the effective date of the consolidation. The duties performed by the local boards under IC 36-8-7 and IC 36-8-8, respectively, are assumed by the consolidated city's local board for the 1937 firefighters' pension fund and local board for the 1977 police officers' and firefighters' pension and disability fund, respectively. Notwithstanding any other provision, the legislative body of the consolidated city may adopt an ordinance to adjust the membership of the consolidated city's local board to reflect the consolidation.

~~(7) The consolidated city may levy property taxes within the consolidated city's maximum permissible ad valorem property tax levy limit to provide for the payment of the expenses for the operation of the consolidated fire department. However, property taxes to fund the pension obligation under IC 36-8-7 for members of the 1937 firefighters fund who were employees of the consolidated city at the time of the consolidation may be levied only by the fire special service district within the fire special service district. The fire special service district established under IC 36-3-1-6 may levy property taxes to provide for the payment of expenses for the operation of the consolidated fire department within the territory of the fire special service district. Property taxes to fund the pension obligation under IC 36-8-8 for members of the 1977 police officers' and firefighters' pension and disability fund who were~~

~~members of the fire department of the consolidated city on the effective date of the consolidation may be levied only by the fire special service district within the fire special service district. Property taxes to fund the pension obligation for members of the 1937 firefighters fund who were not members of the fire department of the consolidated city on the effective date of the consolidation and members of the 1977 police officers' and firefighters' pension and disability fund who were not members of the fire department of the consolidated city on the effective date of the consolidation may be levied by the consolidated city within the city's maximum permissible ad valorem property tax levy. However, these taxes may be levied only within the fire special service district and any townships that have consolidated fire departments under this section.~~

~~(8)~~ **(4)** The executive of the consolidated city shall provide for an independent evaluation and performance audit, due before March 1 of the year in which the consolidation is effective and before March 1 in each of the following two (2) years, to determine:

(A) the amount of any cost savings, operational efficiencies, or improved service levels; and

(B) any tax shifts among taxpayers;

that result from the consolidation. The independent evaluation and performance audit must be provided to the legislative council in an electronic format under IC 5-14-6 and to the state budget committee.

SECTION 39. IC 36-3-1-6.2, AS ADDED BY P.L.227-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.2. (a) If a consolidated fire department is established under section 6.1 of this chapter, the consolidated city, through the consolidated fire department, shall after the consolidation establish, operate, and maintain emergency ambulance services (as defined in IC 16-18-2-107) in the ~~fire special service district and in those townships in the county that are consolidated under section 6.1 of this chapter.~~ **territory of the consolidated fire department taxing district.**

(b) This section does not prohibit the providing of emergency ambulance services under an interlocal agreement under IC 36-1-7.

SECTION 40. IC 36-3-1-6.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.3. (a) A consolidated fire department may not provide fire protection services for:**

(1) an excluded city; or

(2) a fire protection territory for which an excluded city is a provider unit (as defined in IC 36-8-19-3);

unless the fire protection services are provided under an interlocal agreement under IC 36-1-7 or the conditions in subsection (b) are met.

(b) For the consolidated fire department to provide fire protection services to an excluded city other than under an interlocal agreement under IC 36-1-7, all the following must occur:

(1) The legislative body of the excluded city and the city-county legislative body must adopt substantially similar ordinances authorizing the consolidation of the fire department of the excluded city into the consolidated fire department.

(2) The ordinances described in subdivision (1) must:

(A) specify the effective date of the consolidation; and

(B) set forth the conditions of the consolidation.

(c) After the effective date of the consolidation described in subsection (b), the consolidated fire department shall provide fire protection services within the territory of the excluded city.

(d) After the effective date of the consolidation described in subsection (b) and except as otherwise provided, all the property, equipment, records, rights, and contracts of the fire department of the excluded city are transferred to and assumed by the consolidated city. Any balance in an excluded city's cumulative building and equipment fund for fire protection and related services established under IC 36-8-14 before the effective date of the consolidation shall not be transferred to the consolidated city but shall be transferred first to a dedicated city fund and used to pay pension obligations under the 1937 firefighters' pension fund, if the excluded city has any unfunded liability for pension obligations for its firefighters under the 1937 firefighters' pension fund, and if any balance remains after that transfer for pension obligations the remaining balance shall be transferred to any other cumulative fund or rainy day fund established by the excluded city before the effective date of the consolidation. The balances in any funds established by an excluded city for any purpose are not transferred to the consolidated city.

(e) After the effective date of the consolidation described in subsection (b), the employees of the fire department of the excluded city cease employment with the excluded city and become employees of the consolidated fire department. These employees are not hired or rehired for purposes of IC 36-8-3.2 or IC 36-8-10.5 upon becoming employees of the consolidated fire department. The consolidated city shall assume all agreements with labor organizations that:

(1) are in effect after the effective date of the consolidation described in subsection (b); and

(2) apply to employees of the fire department of the excluded city who become employees of the consolidated fire department.

However, an employee of the excluded city may not become an employee of the consolidated fire department under this subsection unless the employee has completed a criminal history background check.

(f) Except as provided in subsection (h), the consolidated city shall assume, defease, pay, or refund all indebtedness related to fire protection facilities or fire protection equipment incurred before the effective date of the consolidation described in subsection (b) by:

(1) an excluded city; or

(2) a building, holding, or leasing corporation on behalf of an excluded city;

whose fire department is consolidated into the consolidated fire department under subsection (b). Indebtedness related to fire protection operations (excluding indebtedness related to fire protection facilities or fire protection equipment) that is incurred before the effective date of the consolidation by the excluded city whose fire department is consolidated into the consolidated fire department shall remain the debt of the excluded city and does not become and may not be assumed by the consolidated city.

(g) Notwithstanding any other law, to assume, defease, pay, or refund all or a part of the indebtedness related to fire protection facilities or fire protection equipment under subsection (f), the consolidated city is not required to comply with any other statutory procedures or approvals that apply when a unit incurs indebtedness.

(h) Notwithstanding subsections (f) and (g), the consolidated city may not assume all or a part of the indebtedness described in subsection (f) that will cause the consolidated city to exceed the limitations on the amount of indebtedness that the consolidated city may incur.

(i) The rights of the trustee and the bondholders with respect to any:

(1) indebtedness or bonds; or

(2) bond resolution, trust agreement or indenture, security agreement, purchase agreement, or other undertaking described in subsection (f);

remain the same, although the powers, duties, agreements, and liabilities of the departments listed in subsection (a) have been transferred to the consolidated city, and the consolidated city shall be considered to have assumed all those powers, duties, agreements, and liabilities.

(j) Whenever an excluded city consolidates its fire department into the consolidated fire department under subsection (b), the local boards for the 1937 firefighters' pension fund and the 1977 police officers' and firefighters' pension and disability fund of the excluded city are dissolved, and their services are terminated not later than the effective date of the consolidation. The duties performed by the local boards under IC 36-8-7 and IC 36-8-8, respectively, are assumed by the consolidated city's local board for the 1937 firefighters' pension fund and local board for the 1977 police officers' and firefighters' pension and disability fund, respectively.

(k) Whenever an excluded city consolidates its fire department into the consolidated fire department under subsection (b), the merit board and merit system of the excluded city's fire department are dissolved, and the duties of the excluded city's merit board are transferred to and assumed by the merit board for the consolidated fire department.

(l) Whenever an excluded city consolidates its fire department into the consolidated fire department under subsection (b), commencing with the calendar year following consolidation and for each year thereafter, the excluded city's monthly distributive share of county option income tax revenues distributed under IC 6-3.5-6-18.5 shall be reduced by a percentage set forth in the ordinances adopted under subsection (b), and those revenues shall instead be distributed to the consolidated fire department taxing district and deposited in the consolidated fire department taxing district fund.

SECTION 41. IC 36-3-1-6.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.4. (a) This section applies only to a county having a consolidated city and only if a consolidated fire department is established in the county under section 6.1 of this chapter.**

(b) As used in this section, "taxing district" refers to the consolidated fire department taxing district established in subsection (c).

(c) If a consolidated fire department is established under section 6.1 of this chapter, the consolidated fire department taxing district is established in the county. The taxing district consists of all territory in the county except territory of an excluded city that has not consolidated its fire department under section 6.3 of this chapter.

(d) Subject to subsection (f), the taxing district shall levy a property tax within the territory of the taxing district to pay for the following:

(1) Providing fire protection services and emergency ambulance services within the territory of the taxing district and providing for the operation of the consolidated fire department.

(2) Providing any equipment, buildings, or land that is necessary for the consolidated fire department and for providing fire protection services and emergency ambulance services within the territory of the taxing district.

The property tax levy under this section is separate from other property tax levies of the consolidated city, and a separate maximum permissible property tax levy shall be collected for the taxing district. All revenue collected from the tax levied under this subsection shall be deposited in a consolidated fire department fund.

(e) Subject to subsection (f), the taxing district shall levy a property tax within the territory of the taxing district to pay for the following:

(1) Any indebtedness related to fire protection facilities or fire protection equipment assumed, defeased, paid, or refunded under section 6.1 or 6.3 of this chapter.

(2) Any indebtedness issued by the consolidated city, either before or after the consolidated fire department is established, to pay for fire protection services, emergency services, or equipment, buildings, or land related to fire protection services or emergency medical services.

The property tax levy collected under this subsection shall be deposited in a consolidated fire department debt service fund.

(f) This subsection applies only during the first four (4) calendar years that the taxing district levies a property tax under this section. Notwithstanding any other statute, the total property tax rate imposed by the taxing district for a year in those parts of the taxing district that are within a particular township, but not within the boundaries of the fire special service district, may not exceed the total property tax rate imposed by the township (and a fire protection territory in the township) for fire protection services (including property taxes imposed for debt related to fire protection services) in the year preceding the year in which the taxing district first levies a property tax under this section.

(g) Money in the consolidated fire department fund shall be used for the purposes described in subsection (d), and money in the consolidated fire department debt service fund shall be used for the purposes described in subsection (e). The controller of the consolidated city shall administer the funds and is responsible for the issuance of warrants for payments from the funds.

(h) Property taxes to fund the pension obligation under IC 36-8-7 for members of the 1937 firefighters fund who are employees or retired employees of the consolidated city on the later of December 31, 2007, or the day preceding the effective date of the consolidation specified under IC 36-3-1-6.1 by the legislative body of the consolidated city may be levied only by the fire special service district created by section 6 of this chapter within the territory of the fire special service district and may not be levied by the taxing district.

(i) In the case of a township or an excluded city that consolidates its fire department under this section:

(1) the liability for the payment of pension obligations under IC 36-8-7 for members of the 1937 firefighters fund who are employees or retired employees of the township or excluded city at the time of the consolidation remains with the township or excluded city; and

(2) property taxes to fund the township's or excluded city's pension obligation described in subdivision (1) may be imposed by the township or excluded city only within the township or excluded city.

(j) For property taxes first due and payable in the first calendar year in which property taxes are imposed under this section in the taxing district, the maximum permissible ad valorem property tax levy of the taxing district under IC 6-1.1-18.5 is equal to the sum of:

(1) the sum of the property tax levies for taxes first due and payable in the preceding year for fire protection and related services (excluding debt) by each:

(A) township;

(B) airport authority; or

(C) fire protection territory;

whose fire department is consolidated into the fire department of the consolidated city under section 6.1 of this chapter, excluding amounts paid for pension obligations under IC 36-8-7 for members of the 1937 firefighters fund;

(2) the amount paid from the consolidated city's property tax levy during the preceding year for fire protection and related services (excluding debt); and

(3) the amount paid from the fire special service district's property tax levy during the preceding year for fire protection and related services, excluding amounts paid from the fire special service district's property tax levy to pay the consolidated city's pension obligation under IC 36-8-7 for members of the 1937 firefighters' pension fund.

However, the department of local government finance shall adjust any budgets, tax rates, and tax levies of the consolidated city, townships in the county, the taxing district, excluded cities that have consolidated fire departments under section 6.3 of this chapter, and the airport authority as necessary to reflect the establishment of a consolidated fire department.

(k) For property taxes first due and payable in the first calendar year in which property taxes are imposed under this section in the taxing district, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5:

(1) is decreased for each township, the airport authority, and any fire protection territory by the amount included in the taxing district's maximum permissible ad valorem property tax levy under subsection (j)(1) from the township, airport authority, or fire protection territory;

(2) is decreased for the consolidated city by the amount included in the taxing district's maximum permissible ad valorem property tax levy under subsection (j)(2); and

(3) is decreased for the fire special service district by an amount equal to the amount included in the taxing district's maximum permissible ad valorem property tax levy under subsection (j)(3).

(l) The maximum levy for a consolidated city is increased for property taxes first due and payable in the year that property taxes are first imposed under this section and each subsequent

calendar year by an amount equal to the lesser of:

(1) the difference between:

(A) the maximum levy for the current year for the consolidated city's fire special service district created under section 6 of this chapter; and

(B) the amount levied for the current year for the fire special service district; or

(2) ten percent (10%) of the maximum levy for the consolidated city's fire special service district created under section 6 of this chapter for property taxes first due and payable in the year that property taxes are first imposed under this section.

SECTION 42. IC 36-3-2-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. (a) This section applies if:**

(1) a township fire department, fire protection district, or fire protection territory is consolidated into the fire department of a consolidated city under IC 36-3-1-6.1; and

(2) the township fire department, fire protection district, or fire protection territory has at least one (1) full-time, fully paid firefighter.

(b) A firefighter described in subsection (a)(2) is entitled to employment as a full-time, fully paid firefighter of the fire department of the consolidated city at not less than:

(1) the same merit or permanent rank; or

(2) a rank in the merit system of the fire department of a consolidated city that is equivalent to the merit or permanent rank;

that the firefighter held on the later of the date this section was enacted into law or the date the firefighter fills a vacant position through a merit testing process. Ranks achieved after the passage of Senate Enrolled Act 1 of the 2006 regular session of the general assembly may be reviewed by the merit board to determine if those ranks were achieved through a bona fide merit process.

(c) The fire department of:

(1) the consolidated city; and

(2) the township, fire protection district, or fire protection territory;

may not reduce or terminate the employment or benefits of a full-time, fully paid firefighter who is employed before the effective date of the consolidation because of or to facilitate the consolidation, except as negotiated in an agreement between the consolidated city and the bargaining unit representing firefighters.

(d) This section does not prohibit a fire department, fire protection district, or fire protection territory from taking disciplinary action for cause against a full-time, fully paid firefighter, including suspending, reducing in rank, or discharging the firefighter.

(e) This section does not apply to a firefighter employed by the airport authority on the effective date of the consolidation.

SECTION 43. IC 36-3-2-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12. (a) This section applies after June 30, 2006. This section applies to all political subdivisions in Marion County.**

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

(1) a husband;

(2) a wife;

(3) a father;

(4) a mother;

(5) a son or son-in-law;

(6) a daughter or daughter-in-law;

(7) a brother;

(8) a sister;

(9) an aunt;

(10) an uncle;

(11) a niece; or

(12) a nephew.

(c) An individual who is a relative of a member of a board, committee, council, or commission or the head of any office, department, or institution may not:

(1) be employed in any position with the:

(A) board, committee, council, or commission of which the individual's relative is a member; or

(B) office, department, or institution that is headed by the individual's relative; or

(2) receive any compensation as an employee for services from any appropriation by a political subdivision subject to this chapter.

(d) An individual may not be employed in a position in which the individual would have a direct supervisory or subordinate relationship with the individual's relative.

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

(1) An individual employed in the same position with the board, committee, council, commission, office, department, or institution for at least twelve (12) consecutive months immediately before the appointment or election of the individual's relative as a member of the board, committee, council, or commission or head of the office, department, or institution.

(2) The employment of any law enforcement officer or firefighter who is under the jurisdiction of a merit commission established under IC 36-8-3.5.

(f) This section does not require the termination or reassignment of any employee of a political subdivision from any position held by that individual on and continuously after June 30, 2006.

SECTION 44. IC 36-3-5-2.7, AS ADDED BY P.L.227-2005, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.7. (a) The office of finance and management is established and is responsible for:

(1) budgeting, except as provided in subsection (c);

(2) financial reporting and audits;

(3) purchasing; and

(4) fixed assets;

for all city and county departments, offices, and agencies.

(b) The controller:

(1) serves as the director of; and

(2) may organize into divisions;

the office of finance and management.

(c) The office of finance and management is not responsible for the issuance of warrants for payments from county and city funds. **A person may not sign or imprint the signature of the county auditor on, or affix the signature of the county auditor to, any warrant for the payment of county or city funds without the approval of the county auditor.**

SECTION 45. IC 36-3-5-2.8, AS ADDED BY P.L.227-2005, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.8. (a) Except as provided in subsections (b), ~~and~~ (c), **(d), and (e),** the controller:

(1) has all the powers; and

(2) performs all the duties;

of the county auditor under law.

(b) The controller:

(1) does not have the powers; and

(2) may not perform the duties;

of the county auditor under IC 36-2-9.5 and IC 36-3-6, or as a member of the board of commissioners of the county under IC 36-3-3-10.

(c) Notwithstanding subsection (a) or any other law, the executive, with the approval of the legislative body, may allocate the duties of the county auditor, except the duties referred to in subsection (b), among:

(1) the controller;

(2) the county assessor;

(3) the county auditor; or

(4) other appropriate city or county officials.

(d) The county auditor is responsible for the payroll functions and duties for all city and county departments, offices, and agencies, and the controller may not perform these functions and duties, except as requested by the county auditor.

(e) The approval of the controller is not required for a human resources policy or personnel policy established under IC 36-3-7-6 by an elected county officer.

SECTION 46. IC 36-3-6-4.1 IS ADDED TO THE INDIANA

CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.1. Notwithstanding IC 36-8-7, if a consolidated fire department is established under IC 36-3-1-6.1, the city-county legislative body shall adopt an ordinance to levy a property tax only within the fire special service district in the amount and at the rate necessary to produce sufficient revenue to pay amounts required to satisfy the consolidated city's 1937 firefighters' pension fund obligations under IC 36-8-7-14 for persons who are employees or retired employees of the consolidated city on the later of December 31, 2007, or the day preceding the effective date of the consolidation specified under IC 36-3-1-6.1 by the legislative body of the consolidated city.**

SECTION 47. IC 36-3-7-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. Each elected county officer is responsible for establishing the human resources policies and personnel policies that apply to employees of the county officer. An elected county officer may establish these policies without the approval of any other person, except for approval of the county legislative body required under IC 36-3-6 for compensation of employees.**

SECTION 48. IC 36-3-7-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. (a) Notwithstanding any other law, the consolidated city may issue obligations to refund obligations issued before the effective date of a consolidation under IC 36-3-1-6.1, in the name of:**

(1) a township;
(2) an airport authority;
(3) a fire protection territory; or
(4) a building, holding, or leasing corporation on behalf of a township, an airport authority, or a fire protection territory;

to satisfy the requirements of IC 36-3-1-6.1.

(b) Notwithstanding any other law, the consolidated city may issue obligations to refund obligations issued before the effective date of a consolidation under IC 36-3-1-6.3 by:

(1) an excluded city; or
(2) a building, holding, or leasing corporation on behalf of an excluded city;

to satisfy the requirements of IC 36-3-1-6.3.

SECTION 49. IC 36-3-8 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 8. Township Review Board

Sec. 1. This chapter applies only to a county containing a consolidated city.

Sec. 2. As used in this chapter, "board" refers to the township review board established by section 3 of this chapter.

Sec. 3. The township review board is established.

Sec. 4. (a) The board consists of the following members:

(1) The deputy mayor for public and neighborhood affairs of the consolidated city.
(2) The township trustee of each of the nine (9) townships in the county.
(3) Two (2) members, who must represent different political parties, appointed by the president of the city-county council.
(4) One (1) member appointed by the mayor of the consolidated city upon the recommendation of the president of the Marion County Alliance of Neighborhood Associations.
(5) One (1) member appointed by the mayor of the consolidated city upon the recommendation of the president of the Greater Indianapolis Chamber of Commerce.
(6) One (1) member appointed by the secretary of the Indiana family and social services administration.

(b) An appointing authority must make appointments under subsection (a) not later than July 1, 2006.

(c) The deputy mayor for public and neighborhood affairs must call the first meeting of the board before August 1, 2006. At the first meeting of the board, the members of the board shall elect a chairperson.

(d) If a member ceases to be employed in the position or hold the office required for appointment to the board, the member ceases to be a member of the board, and the original appointing authority shall appoint an individual to serve on the board for the remainder of the board's term.

Sec. 5. (a) A majority of the members appointed to and serving on the board constitutes a quorum for a meeting of the board.

(b) The affirmative vote of a majority of the members appointed to and serving on the board is necessary for the board to take official action.

(c) The board shall meet on the call of the chairperson.

Sec. 6. Members of the board are not entitled to any salary or per diem for participation on the board.

Sec. 7. The board shall do the following:

(1) Conduct field studies and audits to determine how best to serve constituents throughout the county after the consolidation, joint performance, or transfer of city, county, and township functions, taking into account the efficiencies that may be achieved.
(2) Make recommendations concerning the number and location of community resource centers in the county.
(3) Identify city and township services that may be provided jointly or through interlocal cooperation agreements, and make recommendations concerning the joint location of those services with other federal, state, or local government agencies.
(4) Identify which of the services provided by the township trustees or recommended to be transferred to township trustees may be located in the community resource centers.
(5) Develop a community education plan to familiarize citizens with the provision of services by various methods throughout the county.
(6) Review functions performed in the county by township trustees under IC 36-6-4-3 and make recommendations concerning any statutory changes necessary to achieve greater efficiency and lower costs in the provision of those services.
(7) Identify any services performed by the state under IC 12-8 that should be transferred to or administered jointly with townships in the county.
(8) Review the operation of small claims courts in the county.
(9) Study and make recommendations concerning the role and composition of the existing township board structure.
(10) Provide a report before December 31 of each year to the legislative body of the county containing a consolidated city and in an electronic format under IC 5-14-6 to the legislative council.

Sec. 8. (a) The board is abolished December 31, 2008.

(b) This chapter expires January 1, 2009.

SECTION 50. IC 36-6-4-3, AS AMENDED BY P.L.73-2005, SECTION 173, AND AS AMENDED BY P.L.227-2005, SECTION 36, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. The executive shall do the following:

(1) Keep a written record of official proceedings.
(2) Manage all township property interests.
(3) Keep township records open for public inspection.
(4) Attend all meetings of the township legislative body.
(5) Receive and pay out township funds.
(6) Examine and settle all accounts and demands chargeable against the township.
(7) Administer ~~*poor relief*~~ *township assistance* under IC 12-20 and IC 12-30-4.
(8) Perform the duties of fence viewer under IC 32-26, **except in a township that is located in a county having a consolidated city as provided in IC 32-26-9.**
(9) Act as township assessor when required by IC 36-6-5.
(10) Provide and maintain cemeteries under IC 23-14.
(11) Provide fire protection under IC 36-8, *except in a township that:*

(A) is located in a county having a consolidated city; and
(B) consolidated the township's fire department under

IC 36-3-1-6.1.

(12) File an annual personnel report under IC 5-11-13.

(13) Provide and maintain township parks and community centers under IC 36-10, **except in a township that is located in a county having a consolidated city.**

(14) Destroy detrimental plants, noxious weeds, and rank vegetation under IC 15-3-4, **except in a township that is located in a county having a consolidated city.**

(15) Provide insulin to the poor under IC 12-20-16.

(16) Perform other duties prescribed by statute.

SECTION 51. IC 36-6-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The executive may use the township's share of state, county, and township tax revenues and federal revenue sharing funds for all categories of community services, if these funds are appropriated for these services by the township legislative body. The executive may use these funds for both operating and capital expenditures.

(b) With the consent of the township legislative body, the executive may contract with corporations for health and community services not specifically provided by another governmental entity.

(c) **Except in a township located in a county having a consolidated city after the effective date of the consolidation of fire departments under IC 36-3-1-6.1,** the executive may contract with a private person to provide regular or emergency ambulance service within the township. The contract may provide for the imposition and collection of fees for this service.

(d) **Except in a township located in a county having a consolidated city after the effective date of the consolidation of fire departments under IC 36-3-1-6.1,** the township legislative body may adopt a resolution to provide for the imposition and collection of fees for ambulance services provided by the township police or fire department.

SECTION 52. IC 36-6-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. **(a) Except as provided in subsection (b),** the assessor shall perform the duties prescribed by statute, including:

(1) assessment duties prescribed by IC 6-1.1; and

(2) administration of the dog tax and dog fund, as prescribed by IC 15-5-9.

(b) In a township located in a county having a consolidated city, the duties of the township assessor prescribed by IC 15-5-9 are performed by the controller of the consolidated city or the controller's designee.

SECTION 53. IC 36-6-6-2, AS AMENDED BY P.L.240-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as provided in subsection (b) and section 2.1 of this chapter, a three (3) member township board shall be elected under IC 3-10-2-13 by the voters of each township.

(b) The township board in a county containing a consolidated city shall consist of ~~seven (7)~~ **five (5)** members elected under IC 3-10-2-13 by the voters of each township.

(c) The township board is the township legislative body.

(d) The term of office of a township board member is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

SECTION 54. IC 36-8-4.3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to a police ~~or fire~~ special service district created by IC 36-3-1-6 **and to a consolidated fire department established under IC 36-3-1-6.1.**

SECTION 55. IC 36-8-4.3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A special service district **or a consolidated fire department established under IC 36-3-1-6.1** shall pay for the care of:

(1) a full-time, paid police officer who:

(A) suffers an injury; or

(B) contracts an illness;

during the performance of the officer's duty; or

(2) a full-time, paid firefighter who:

(A) suffers an injury; or

(B) contracts an illness;

during the performance of the firefighter's duty.

(b) The special service district **or the consolidated fire department established under IC 36-3-1-6.1** shall pay for the following expenses incurred by a police officer or firefighter described in subsection (a):

(1) Medical and surgical care.

(2) Medicines and laboratory, curative, and palliative agents and means.

(3) X-ray, diagnostic, and therapeutic service, including during the recovery period.

(4) Hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.

(c) Expenditures required by subsection (a) shall be paid from the general fund of the special service district.

(d) A special service district **or a consolidated fire department established under IC 36-3-1-6.1** that has paid for the care of a police officer or firefighter under subsection (a) has a cause of action for reimbursement of the amount paid under subsection (a) against any third party against whom the police officer or firefighter has a cause of action for an injury sustained because of, or an illness caused by, the third party. The special service district's **or consolidated fire department's** cause of action under this subsection is in addition to, and not in lieu of, the cause of action of the police officer or firefighter against the third party.

SECTION 56. IC 36-8-8-1, AS AMENDED BY P.L.227-2005, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to:

(1) full-time police officers hired or rehired after April 30, 1977, in all municipalities, or who converted their benefits under IC 19-1-17.8-7 (repealed September 1, 1981);

(2) full-time fully paid firefighters hired or rehired after April 30, 1977, or who converted their benefits under IC 19-1-36.5-7 (repealed September 1, 1981);

(3) a police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996;

(4) a park ranger who:

(A) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;

(B) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and

(C) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

(5) a full-time fully paid firefighter who is covered by this chapter before the effective date of consolidation and becomes a member of the fire department of a consolidated city under IC 36-3-1-6.1 ~~provided that~~ **or IC 36-3-1-6.3; however,** the firefighter's service as a member of the fire department of a consolidated city is considered active service under this chapter;

(6) except as otherwise provided, a full-time fully paid firefighter who is hired or rehired after the effective date of the consolidation by a consolidated fire department established under IC 36-3-1-6.1;

(7) a full-time police officer who is covered by this chapter before the effective date of consolidation and becomes a member of the consolidated law enforcement department as part of the consolidation under IC 36-3-1-5.1, provided that the officer's service as a member of the consolidated law enforcement department is considered active service under this chapter; and

(8) except as otherwise provided, a full-time police officer who is hired or rehired after the effective date of the consolidation by a consolidated law enforcement department established under IC 36-3-1-5.1;

except as provided by section 7 of this chapter.

SECTION 57. IC 36-8-8-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.1. (a) As used in this chapter, "local board" means the following:

(1) For a unit that established a 1925 fund for its police officers, the local board described in IC 36-8-6-2.

(2) **Except as provided in subdivision (3),** for a unit that established a 1937 fund for its firefighters, the local board described in IC 36-8-7-3.

(3) For a unit that established a 1937 fund for its firefighters and consolidates its fire department into the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3:

(A) before the date the consolidation is effective, the local board described in IC 36-8-7-3; and

(B) on and after the date the consolidation is effective, the local board of the consolidated city established under IC 36-8-7-3.

~~(3)~~ **(4)** For a consolidated city that established a 1953 fund for its police officers, the local board described in IC 36-8-7.5-2.

~~(4)~~ **(5)** For a unit, other than a consolidated city, that did not establish a 1925 fund for its police officers or a 1937 fund for its firefighters, the local board described in subsection (b) or (c).

(b) If a unit did not establish a 1925 fund for its police officers, a local board shall be composed in the same manner described in IC 36-8-6-2(b). However, if there is not a retired member of the department, no one shall be appointed to that position until such time as there is a retired member.

(c) **Except as provided in subsection (d),** if a unit did not establish a 1937 fund for its firefighters, a local board shall be composed in the same manner described in IC 36-8-7-3(b). However, if there is not a retired member of the department, no one shall be appointed to that position until such time as there is a retired member.

(d) If a unit located in a county containing a consolidated city did not establish a 1937 fund for its firefighters and consolidates its fire department into the fire department of the consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3, the local board is:

(1) before the effective date of the consolidation, the local board described in IC 36-8-7-3; and

(2) on and after the effective date of the consolidation, the local board of the consolidated city established under IC 36-8-7-3.

SECTION 58. IC 36-8-8-7, AS AMENDED BY HEA 1040-2006, SECTION 575, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Except as provided in subsections (d), (e), (f), (g), (h), (k), (l), and (m):

(1) a police officer; or

(2) a firefighter;

who is less than thirty-six (36) years of age and who passes the baseline statewide physical and mental examinations required under section 19 of this chapter shall be a member of the 1977 fund and is not a member of the 1925 fund, the 1937 fund, or the 1953 fund.

(b) A police officer or firefighter with service before May 1, 1977, who is hired or rehired after April 30, 1977, may receive credit under this chapter for service as a police officer or firefighter prior to entry into the 1977 fund if the employer who rehires the police officer or firefighter chooses to contribute to the 1977 fund the amount necessary to amortize the police officer's or firefighter's prior service liability over a period of not more than forty (40) years, the amount and the period to be determined by the PERF board. If the employer chooses to make the contributions, the police officer or firefighter is entitled to receive credit for the police officer's or firefighter's prior years of service without making contributions to the 1977 fund for that prior service. In no event may a police officer or firefighter receive credit for prior years of service if the police officer or firefighter is receiving a benefit or is entitled to receive a benefit in the future from any other public pension plan with respect to the prior years of service.

(c) Except as provided in section 18 of this chapter, a police officer or firefighter is entitled to credit for all years of service after April 30, 1977, with the police or fire department of an employer covered by this chapter.

(d) A police officer or firefighter with twenty (20) years of service does not become a member of the 1977 fund and is not covered by this chapter, if the police officer or firefighter:

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981); and

(3) is rehired after April 30, 1977, by the same employer.

(e) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the police officer or firefighter:

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

(3) was rehired after April 30, 1977, but before February 1, 1979; and

(4) was made, before February 1, 1979, a member of a 1925, 1937, or 1953 fund.

(f) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the police officer or firefighter:

(1) was hired by the police or fire department of a unit before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

(3) is rehired by the police or fire department of another unit after December 31, 1981; and

(4) is made, by the fiscal body of the other unit after December 31, 1981, a member of a 1925, 1937, or 1953 fund of the other unit.

If the police officer or firefighter is made a member of a 1925, 1937, or 1953 fund, the police officer or firefighter is entitled to receive credit for all the police officer's or firefighter's years of service, including years before January 1, 1982.

(g) As used in this subsection, "emergency medical services" and "emergency medical technician" have the meanings set forth in IC 16-18-2-110 and IC 16-18-2-112. A firefighter who:

(1) is employed by a unit that is participating in the 1977 fund;

(2) was employed as an emergency medical technician by a political subdivision wholly or partially within the department's jurisdiction;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) ceased employment with the political subdivision and was hired by the unit's fire department due to the reorganization of emergency medical services within the department's jurisdiction;

shall participate in the 1977 fund. A firefighter who participates in the 1977 fund under this subsection is subject to sections 18 and 21 of this chapter.

(h) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the individual was appointed as:

(1) a fire chief under a waiver under IC 36-8-4-6(c); or

(2) a police chief under a waiver under IC 36-8-4-6.5(c);

unless the executive of the unit requests that the 1977 fund accept the individual in the 1977 fund and the individual previously was a member of the 1977 fund.

(i) A police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996, is a member of the 1977 fund.

(j) A park ranger who:

(1) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;

(2) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and

(3) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

is a member of the fund.

(k) Notwithstanding any other provision of this chapter, a police officer or firefighter:

(1) who is a member of the 1977 fund before a consolidation under IC 36-3-1-5.1, ~~or~~ IC 36-3-1-6.1, **or IC 36-3-1-6.3;**

(2) whose employer is consolidated into the consolidated law

enforcement department or the fire department of a consolidated city under IC 36-3-1-5.1, ~~or~~ IC 36-3-1-6.1, **or IC 36-3-1-6.3;** and

(3) who, after the consolidation, becomes an employee of the consolidated law enforcement department or the consolidated fire department under IC 36-3-1-5.1, ~~or~~ IC 36-3-1-6.1, **or IC 36-3-1-6.3;**

is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(l) Notwithstanding any other provision of this chapter, if:

(1) before a consolidation under IC 8-22-3-11.6 a police officer or firefighter provides law enforcement services or fire protection services for an entity in a consolidated city;

(2) the provision of those services is consolidated into the **consolidated** law enforcement department or **the** fire department of a consolidated city **under IC 36-3-1-5.1 or IC 36-3-1-6.1;** and

(3) after the consolidation, the police officer or firefighter becomes an employee of the consolidated law enforcement department or the consolidated fire department under IC 8-22-3-11.6;

the police officer or firefighter is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(m) A police officer or firefighter who is a member of the 1977 fund under subsection (k) or (l):

(1) may not be:

~~(1)~~ **(A)** retired for purposes of section 10 of this chapter; or

~~(2)~~ **(B)** disabled for purposes of section 12 of this chapter;

solely because of a change in employer under the consolidation; **and**

(2) shall receive credit for all years of service as a member of the 1977 fund before the consolidation described in subsection (k) or (l).

SECTION 59. IC 36-8-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to all units except counties. **However, this chapter applies to a county containing a consolidated city if a consolidated fire department is established under IC 36-3-1-6.1.**

SECTION 60. IC 36-8-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) To provide for the cumulative building and equipment fund established under this chapter, the legislative body may levy a tax on all taxable property within the ~~taxing district~~ **unit, fire protection district, or territory of a consolidated fire department taxing district** in compliance with IC 6-1.1-41. The tax rate may not exceed three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) of assessed valuation of property in the ~~taxing district.~~ **unit, fire protection district, or consolidated fire department taxing district.**

(b) As the tax is collected, it shall be deposited in a qualified public depository or depositories and held in a special fund to be known as:

(1) the "building or remodeling, firefighting, and police radio equipment fund" in the case of a municipality **or consolidated fire department taxing district;** or ~~as~~

(2) the "building or remodeling and fire equipment fund" in the case of a township or fire protection district.

(c) Notwithstanding IC 6-1.1-41 or any other law, if a consolidated fire department is established under IC 36-3-1-6.1:

(1) a cumulative building and equipment fund is established for the county containing a consolidated city; and

(2) the legislative body of the county containing a consolidated city may levy a tax under this chapter beginning in the calendar year following the year in which the consolidated fire department is established.

A tax levied under this chapter by a county containing a consolidated city may only be levied within the territory of the consolidated fire department taxing district.

SECTION 61. IC 36-10-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to the townships indicated in each section.

(b) After December 31, 2006:

(1) this chapter does not apply to a township in a county having a consolidated city; and

(2) all powers and duties related to parks and recreation of the townships shall be transferred to the consolidated city.

SECTION 62. IC 36-10-7.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to ~~all townships.~~ **a township.**

(b) After December 31, 2006:

(1) this chapter does not apply to a township in a county having a consolidated city; and

(2) all powers and duties related to parks and recreation of the townships shall be transferred to the consolidated city.

SECTION 63. [EFFECTIVE JULY 1, 2006] **(a) This SECTION applies only to a township in a county having a consolidated city.**

(b) IC 36-6-6-2, as amended by this act, does not affect the term of a township legislative body member that expires on January 1, 2009.

(c) After June 30, 2006, a township legislative body shall adopt a resolution under IC 36-6-6-2.5, dividing the township into five (5) legislative body districts in accordance with IC 36-6-6-2, as amended by this act. A five (5) member township legislative body shall be elected in accordance with IC 36-6-6-2, as amended by this act, at the 2008 general election.

(d) This SECTION expires January 1, 2009.

SECTION 64. [EFFECTIVE JANUARY 1, 2007] **(a) All assets, property rights, equipment, records, personnel, and contracts and all else connected with:**

(1) providing and maintaining parks and community centers under IC 36-10-7 and IC 36-10-7.5;

(2) administering the dog tax and dog fund under IC 15-5-9;

(3) performing duties regarding fences under IC 32-26; and

(4) destroying detrimental plants, noxious weeds, and rank vegetation under IC 15-3-4;

by a township in a county having a consolidated city are transferred to the consolidated city on January 1, 2007.

(b) Any indebtedness regarding the activities set forth in subsection (a)(1) through (a)(5) that was incurred by a township before January 1, 2007, shall be assumed or defeased by the consolidated city, notwithstanding any other provision of Indiana law requiring completion of certain procedures and approvals for the incurrence of indebtedness; however, the indebtedness (or any part of the indebtedness) may not be assumed by the consolidated city if the assumption would cause the consolidated city to exceed any limitation on the amount of indebtedness that may be incurred by the consolidated city.

(c) The ad valorem property tax levy limits imposed by IC 6-1.1-18.5 do not apply to ad valorem property taxes imposed by a consolidated city to pay or fund any indebtedness assumed, defeased, paid, or refunded under subsection (b).

SECTION 65. [EFFECTIVE JULY 1, 2006] **(a) For property taxes first due and payable in 2007, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5:**

(1) is increased for a consolidated city by the amount levied in 2006 by each township in the county having a consolidated city for:

(A) providing and maintaining parks and community centers under IC 36-10-7 and IC 36-10-7.5;

(B) administering the dog tax and dog fund under IC 15-5-9;

(C) performing duties regarding fences under IC 32-26; and

(D) destroying detrimental plants, noxious weeds, and rank vegetation under IC 15-3-4; and

(2) is reduced for a township in a county having a consolidated city by the amount levied in 2006 for:

(A) providing and maintaining parks and community centers under IC 36-10-7 and IC 36-10-7.5;

(B) administering the dog tax and dog fund under IC 15-5-9;

(C) performing duties regarding fences under IC 32-26; and

(D) destroying detrimental plants, noxious weeds, and rank vegetation under IC 15-3-4.

(b) This SECTION expires January 1, 2008.

SECTION 66. [EFFECTIVE UPON PASSAGE] **The general assembly finds that the consolidated city and townships in the county containing a consolidated city are unique because of their size, population density, and absence of unincorporated areas.**

SECTION 67. [EFFECTIVE UPON PASSAGE] **The legislative services agency shall prepare legislation for introduction in the 2007 regular session of the general assembly to organize and correct statutes affected by this act, if necessary.**

SECTION 68. **An emergency is declared for this act.**

(Reference is to ESB 1 as reprinted March 2, 2006.)

M. YOUNG	BUCK
C. LAWSON	HOFFMAN
Senate Conferees	House Conferees

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

[*Journal Clerk's Note: Representative Hoffman signed conference committee report 1 on Engrossed Senate Bill 1, although his appointment as a conferee had not yet been announced. At 9:05 p.m., the Speaker announced Representative Hoffman replacing Representative Mahern as a conferee and, at 10:12 p.m., conference committee report 2 was filed, properly signed by Representative Hoffman.*]

CONFERENCE COMMITTEE REPORT

EHB 1008–1; filed March 14, 2006, at 6:22 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 1008 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 amendment made by the committee report of the committee of one adopted March 2, 2006.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-4-10.9-1.2, AS ADDED BY P.L.235-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.2. "Affected statutes" means all statutes that grant a power to or impose a duty on the authority, including but not limited to IC 4-4-11, **IC 4-4-11.4,** IC 4-4-21, IC 4-13.5, IC 8-1-33, IC 8-9.5, IC 8-14.5, IC 8-15, **IC 8-15.5,** IC 8-16, IC 13-18-13, IC 13-18-21, IC 13-19-5, IC 14-14, and IC 15-7-5.

SECTION 2. IC 4-22-2-37.1, AS AMENDED BY P.L.235-2005, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.

(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(9) A rule adopted under IC 16-19-3-5 that the executive board of the state department of health declares is necessary to meet an emergency.

(10) An emergency rule adopted by the Indiana ~~transportation~~ finance authority under IC 8-21-12.

(11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(16) An emergency rule adopted by the Indiana gaming commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.

(17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(22) An emergency rule adopted by the Indiana state board of animal health under IC 15-2.1-18-21.

(23) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34.

(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33.

(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) or IC 6-1.1-22.5-20.

(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

(30) A rule adopted by the Indiana finance authority:

(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;

(B) under IC 8-15-2-17.2(a)(10):

(i) establishing enforcement procedures; and

(ii) making assessments for failure to pay required tolls;

(C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or

(D) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall

determine the number of copies of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the secretary of state for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The secretary of state shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the secretary of state shall:

(1) accept the rule for filing; and

(2) file stamp and indicate the date and time that the rule is accepted on every duplicate original copy submitted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in subsections (j), ~~and~~ (k), **and (l),** a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection (a)(28) may not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(8), (a)(12), or (a)(29) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

SECTION 3. IC 5-10.3-6-8.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2005 (RETROACTIVE)]: **Sec. 8.9. (a) This section applies when certain employees of the state in particular departmental, occupational, or other definable classifications are terminated from employment with the state as a result of:**

(1) a lease or other transfer of state property to a nongovernmental entity; or

(2) a contractual arrangement with a nongovernmental entity to perform certain state functions.

(b) The governor shall request coverage under this section from the board whenever an employee of the state is terminated as described in subsection (a).

(c) The board must approve a request from the governor under subsection (b) unless approval violates subsection (k), federal or state law, or the terms of the fund.

(d) As used in this section, "early retirement" means a member is eligible to retire with a reduced pension under IC 5-10.2-4-1, because the member:

(1) is at least fifty (50) years of age; and

(2) has at least fifteen (15) years of creditable service.

(e) As used in this section, "normal retirement" means a member is eligible to retire under IC 5-10.2-4-1, because:

(1) the member is at least sixty-five (65) years of age and has at least ten (10) years of creditable service;

(2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or

(3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five (55) years of age.

(f) The withdrawal of the employees described in subsection (a) from the fund is effective on a termination date established by the board. The board may not establish a termination date that occurs before all of the following have occurred:

(1) The governor has requested coverage under this section and provided written notice of the following to the board:

(A) The intent of the state to terminate the employees from employment.

(B) The names of the terminated employees as of the date that the termination is to occur.

(2) The expiration of a thirty (30) day period following the filing of the notice with the board.

(3) The state complies with subsections (g) and (i).

(g) A member who:

(1) is an employee of the state described in subsection (a) with at least twenty-four (24) months of creditable service as of the date of the notice under subsection (f); and

(2) is listed in the notice under subsection (f);

is vested in the pension portion of the member's retirement benefit. The state must contribute to the fund the amount the board determines is necessary to completely fund the vested benefit. The contribution by the state must be made in a lump sum or in a series of payments determined by the board. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service.

(h) A member who is covered by subsection (g) and who is at least sixty-five (65) years of age as of the date of the notice under subsection (f) may elect to retire under IC 5-10.2-4-1 even if the member has less than ten (10) years of service. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service.

(i) A member who is covered by subsection (f) and who, as of the date of the notice under subsection (f), is less than twenty-four (24) months from being eligible for normal or early retirement under IC 5-10.2-4-1 may elect to retire by purchasing the service credit needed for retirement under the following conditions:

(1) The state shall contribute to the fund an amount determined under IC 5-10.2-3-1.2 and payable from the sources described in subsection (j) sufficient to pay the member's contributions required for the member's purchase of the service credit the member needs to retire.

(2) The maximum amount of creditable service that the state may purchase for a member under this subsection is twenty-four (24) months.

(3) The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service plus all other service for which the fund gives credit, including the creditable service purchased under this subsection.

(j) The amounts that the state is required to contribute to the fund under subsection (i) must come from the following sources:

(1) If the state receives monetary payments under the lease or contractual arrangement described in subsection (a), the proceeds of the monetary payments received by the state. The state may not require, as a condition of the transaction to transfer state property or have certain state functions performed by a nongovernmental entity, that the

nongovernmental entity directly or indirectly pay the amounts that the state is required to contribute under subsection (i).

(2) If the state does not receive any monetary payments under the lease or contractual arrangement described in subsection (a), any remaining appropriations made to the state department, agency, or other entity terminating the employees described in subsection (a).

(3) If the sources described in subdivisions (1) and (2) do not fully fund the amounts that the state is required to contribute to the fund under subsection (i), the board shall request that the general assembly appropriate the amount necessary to fully fund the state's required contribution under subsection (i) in the next biennial state budget.

(k) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny an employee permission to withdraw if the denial is necessary to achieve compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

SECTION 4. IC 6-3.5-7-13.1, AS AMENDED BY P.L.118-2005, SECTION 2, AND AS AMENDED BY P.L.214-2005, SECTION 21, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.1. (a) The fiscal officer of each county, city, or town for a county in which the county economic development tax is imposed shall establish an economic development income tax fund. Except as provided in sections 23, 25, 26, and 27 of this chapter, the revenue received by a county, city, or town under this chapter shall be deposited in the unit's economic development income tax fund.

(b) Except as provided in sections 15, 23, 25, 26, and 27 of this chapter, revenues from the county economic development income tax may be used as follows:

(1) By a county, city, or town for economic development projects, for paying, notwithstanding any other law, under a written agreement all or a part of the interest owed by a private developer or user on a loan extended by a financial institution or other lender to the developer or user if the proceeds of the loan are or are to be used to finance an economic development project, for the retirement of bonds under section 14 of this chapter for economic development projects, for leases under section 21 of this chapter, or for leases or bonds entered into or issued prior to the date the economic development income tax was imposed if the purpose of the lease or bonds would have qualified as a purpose under this chapter at the time the lease was entered into or the bonds were issued.

(2) By a county, city, or town for:

(A) the construction or acquisition of, or remedial action with respect to, a capital project for which the unit is empowered to issue general obligation bonds or establish a fund under any statute listed in IC 6-1.1-18.5-9.8;

(B) the retirement of bonds issued under any provision of Indiana law for a capital project;

(C) the payment of lease rentals under any statute for a capital project;

(D) contract payments to a nonprofit corporation whose primary corporate purpose is to assist government in planning and implementing economic development projects;

(E) operating expenses of a governmental entity that plans or implements economic development projects;

(F) to the extent not otherwise allowed under this chapter, funding substance removal or remedial action in a designated unit; or

(G) funding of a revolving fund established under IC 5-1-14-14.

(3) By a county, city, or town for any lawful purpose for which money in any of its other funds may be used.

~~(3)~~ **(4)** *By a city or county described in IC 36-7.5-2-3(b) for making transfers required by IC 36-7.5-4-2. If the county economic development income tax rate is increased after April 30, 2005, in a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), the first three million five hundred thousand dollars ($3,500,000) of the tax revenue that results each year from the tax rate increase shall be used by the county only to make the county's transfer required by IC 36-7.5-4-2. The first three million five hundred thousand dollars ($3,500,000) of the tax revenue that results each year from the tax rate increase shall be paid by the county treasurer to the treasurer of the northwest Indiana regional development authority under IC 36-7.5-4-2 before certified distributions are made to the county or any cities or towns in the county under this chapter from the tax revenue that results each year from the tax rate increase. In a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), all of the tax revenue that results each year from the tax rate increase that is in excess of the first three million five hundred thousand dollars ($3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for additional homestead credits under subdivision ~~(4).~~* **(5).**

~~(4)~~ **(5)** *This subdivision applies only in a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000). Except as otherwise provided, the procedures and definitions in IC 6-1.1-20.9 apply to this subdivision. All of the tax revenue that results each year from a tax rate increase described in subdivision ~~(3)~~* **(4)** *that is in excess of the first three million five hundred thousand dollars ($3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for additional homestead credits under this subdivision. The following apply to additional homestead credits provided under this subdivision:*

(A) The additional homestead credits must be applied uniformly to increase the homestead credit under IC 6-1.1-20.9 for homesteads in the county, city, or town.

(B) The additional homestead credits shall be treated for all purposes as property tax levies. The additional homestead credits do not reduce the basis for determining the state property tax replacement credit under IC 6-1.1-21 or the state homestead credit under IC 6-1.1-20.9.

(C) The additional homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(D) The department of local government finance shall determine the additional homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this subdivision to provide additional homestead credits in that year.

~~(5)~~ **(6)** *This subdivision applies only in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). Except as otherwise provided, the procedures and definitions in IC 6-1.1-20.9 apply to this subdivision. A county or a city or town in the county may use county economic development income tax revenue to provide additional homestead credits in the county, city, or town. The following apply to additional homestead credits provided under this subdivision:*

(A) The county, city, or town fiscal body must adopt an ordinance authorizing the additional homestead credits. The ordinance must:

(i) be adopted before September 1 of a year to apply to property taxes first due and payable in the following year; and

(ii) specify the amount of county economic development income tax revenue that will be used to provide additional homestead credits in the following year.

(B) A county, city, or town fiscal body that adopts an ordinance under this subdivision must forward a copy of the ordinance to the county auditor and the department of local government finance not more than thirty (30) days after the

ordinance is adopted.

(C) The additional homestead credits must be applied uniformly to increase the homestead credit under IC 6-1.1-20.9 for homesteads in the county, city, or town.

(D) The additional homestead credits shall be treated for all purposes as property tax levies. The additional homestead credits do not reduce the basis for determining the state property tax replacement credit under IC 6-1.1-21 or the state homestead credit under IC 6-1.1-20.9.

(E) The additional homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(F) The department of local government finance shall determine the additional homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this subdivision to provide additional homestead credits in that year.

(7) This subdivision applies only to a county:

(A) that has a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000); and

(B) in which:

(i) the county fiscal body has adopted an ordinance under IC 36-7.5-2-3(e) providing that the county is joining the northwest Indiana regional development authority; and

(ii) the fiscal body of the city described in IC 36-7.5-2-3(e) has adopted an ordinance under IC 36-7.5-2-3(e) providing that the city is joining the development authority.

Revenue from the county economic development income tax may be used by a county or a city described in this subdivision for making transfers required by IC 36-7.5-4-2. In addition, if the county economic development income tax rate is increased after June 30, 2006, in the county, the first three million five hundred thousand dollars ($3,500,000) of the tax revenue that results each year from the tax rate increase shall be used by the county only to make the county's transfer required by IC 36-7.5-4-2. The first three million five hundred thousand dollars ($3,500,000) of the tax revenue that results each year from the tax rate increase shall be paid by the county treasurer to the treasurer of the northwest Indiana regional development authority under IC 36-7.5-4-2 before certified distributions are made to the county or any cities or towns in the county under this chapter from the tax revenue that results each year from the tax rate increase. All of the tax revenue that results each year from the tax rate increase that is in excess of the first three million five hundred thousand dollars ($3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for additional homestead credits under subdivision (8).

(8) This subdivision applies only to a county described in subdivision (7). Except as otherwise provided, the procedures and definitions in IC 6-1.1-20.9 apply to this subdivision. All of the tax revenue that results each year from a tax rate increase described in subdivision (7) that is in excess of the first three million five hundred thousand dollars ($3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for additional homestead credits under this subdivision. The following apply to additional homestead credits provided under this subdivision:

(A) The additional homestead credits must be applied uniformly to increase the homestead credit under IC 6-1.1-20.9 for homesteads in the county, city, or town.

(B) The additional homestead credits shall be treated for all purposes as property tax levies. The additional homestead credits do not reduce the basis for determining the state property tax replacement credit under IC 6-1.1-21 or the state homestead credit under IC 6-1.1-20.9.

(C) The additional homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(D) The department of local government finance shall determine the additional homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this subdivision to provide additional homestead credits in that year.

(c) As used in this section, an economic development project is any project that:

(1) the county, city, or town determines will:

(A) promote significant opportunities for the gainful employment of its citizens;

(B) attract a major new business enterprise to the unit; or

(C) retain or expand a significant business enterprise within the unit; and

(2) involves an expenditure for:

(A) the acquisition of land;

(B) interests in land;

(C) site improvements;

(D) infrastructure improvements;

(E) buildings;

(F) structures;

(G) rehabilitation, renovation, and enlargement of buildings and structures;

(H) machinery;

(I) equipment;

(J) furnishings;

(K) facilities;

(L) administrative expenses associated with such a project, including contract payments authorized under subsection (b)(2)(D);

(M) operating expenses authorized under subsection (b)(2)(E); or

(N) to the extent not otherwise allowed under this chapter, substance removal or remedial action in a designated unit;

or any combination of these.

(d) If there are bonds outstanding that have been issued under section 14 of this chapter or leases in effect under section 21 of this chapter, a county, city, or town may not expend money from its economic development income tax fund for a purpose authorized under subsection (b)(3) in a manner that would adversely affect owners of the outstanding bonds or payment of any lease rentals due.

SECTION 5. IC 8-14-14 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 14. Major Moves Construction Fund

Sec. 1. As used in this chapter, "authority" refers to the Indiana finance authority established by IC 4-4-11-4.

Sec. 2. As used in this chapter, "department" refers to the Indiana department of transportation.

Sec. 3. As used in this chapter, "fund" refers to the major moves construction fund established by section 5 of this chapter.

Sec. 4. As used in this chapter, "transportation plan" refers to the department's long range comprehensive transportation plan developed under IC 8-23-2-5.

Sec. 5. (a) The major moves construction fund is established for the purpose of:

(1) funding projects under IC 8-15.7 or IC 8-15-3;

(2) funding other projects in the department's transportation plan; and

(3) funding distributions under sections 6 and 7 of this chapter.

(b) The fund shall be administered by the department.

(c) Notwithstanding IC 5-13, 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 money is invested by the public employees' retirement fund under IC 5-10.3-5.

However, the treasurer of state may not invest the money in the fund in equity securities. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the investment of the fund and may pay the state expenses incurred under those contracts from the fund. Interest that accrues from these investments shall be deposited in the fund.

(d) The fund consists of the following:

(1) Distributions to the fund from the toll road fund under IC 8-15.5-11.

(2) Distributions to the fund from the next generation trust fund under IC 8-14-15.

(3) Appropriations to the fund.

(4) Gifts, grants, loans, bond proceeds, and other money received for deposit in the fund.

(5) Revenues arising from:

(A) a tollway under IC 8-15-3 or IC 8-23-7-22; or

(B) a toll road under IC 8-15-2 or IC 8-23-7-23;

that the department designates as part of, and deposits in, the fund.

(6) Payments made to the authority or the department from operators under IC 8-15.7.

(7) Interest, premiums, or other earnings on the fund.

(e) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

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

(g) Money in the fund must be appropriated by the general assembly to be available for expenditure.

Sec. 6. (a) If the authority enters into a public-private agreement concerning the Indiana Toll Road under IC 8-15.5, the auditor of state shall make the following distributions from the fund for the indicated purposes:

(1) One hundred fifty million dollars ($150,000,000) to the treasurer of state for deposit in the motor vehicle highway account established by IC 8-14-1. Notwithstanding IC 8-14-1, on or before October 15, 2006, and on or before October 15, 2007, the auditor of state shall distribute seventy-five million dollars ($75,000,000) of the money deposited in the motor vehicle highway account under this subdivision to each of the counties, cities, and towns eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1 and in the same proportion among the counties, cities, and towns as funds are distributed from the motor vehicle highway account under IC 8-14-1. The auditor of state:

(A) shall make the distributions required by this subdivision separately from distributions required by IC 8-14-1; and

(B) may not combine the distributions required by this subdivision with distributions required by IC 8-14-1.

Money distributed under this subdivision may be used only for purposes that money distributed from the motor vehicle highway account may be expended under IC 8-14-1.

(2) The following amounts to the northwest Indiana regional development authority for deposit in the development authority fund established under IC 36-7.5-4-1:

(A) Forty million dollars ($40,000,000) during the state fiscal year beginning July 1, 2006. During the state fiscal year beginning July 1, 2006, the regional development authority must pay at least twenty million dollars ($20,000,000) of the distribution received under this clause to an airport authority that is carrying out an airport expansion project described in IC 36-7.5-2-1(2).

(B) Eighty million dollars ($80,000,000) to be distributed in installments of ten million dollars ($10,000,000) during the state fiscal year beginning July 1, 2007, and each of the seven (7) state fiscal years thereafter.

However, no distributions may be made under clause (B) until the development authority's comprehensive strategic development plan prepared under IC 36-7.5-3-4 has been reviewed by the budget committee and approved by the director of the office of management and budget. In addition, no distributions may be made under clause (B) during the state fiscal years beginning July 1, 2009, July 1, 2011, and July 1, 2013, unless the budget committee has reviewed the status of the plan and any changes to the plan.

(3) The following amounts to each of the following counties on or before September 15, 2006, for deposit in local major moves construction funds under IC 8-14-16:

(A) Forty million dollars ($40,000,000) to each county described in IC 8-14-16-1(1) through IC 8-14-16-1(5). However, if a county described in IC 8-14-16-1(3) becomes a member of the northwest Indiana regional development authority, the distribution to that county is twenty-five million dollars ($25,000,000) instead of forty million dollars ($40,000,000).

(B) Twenty-five million dollars ($25,000,000) to each county described in IC 8-14-16-1(6).

(C) Fifteen million dollars ($15,000,000) to each county described in IC 8-14-16-1(7).

(4) One hundred seventy-nine million dollars ($179,000,000) during the state fiscal year beginning July 1, 2006, to the state highway fund for use by the department for preliminary engineering, purchase of rights-of-way, or construction of highways, roads, and bridges. After review by the budget committee, and subject to the approval of the governor, the budget agency may augment this distribution from balances available in the fund.

(5) An amount sufficient to provide for the payments owed by the authority as a result of a written agreement entered into under IC 8-15.5-7-6 to fund reductions in, or refunds of, user fees imposed on Class 2 vehicles, or to establish or replenish the reserves therefore, to the administration account of the toll road fund. The budget agency shall determine the amount of the distributions required to be made by this subdivision for each state fiscal year beginning with the state fiscal year ending June 30, 2007, and ending with the state fiscal year ending June 30, 2016.

(6) An amount sufficient to make any payments required by IC 5-10.3-6-8.9 as a result of a public-private agreement under IC 8-15.5.

(b) There is annually appropriated from the fund an amount sufficient to make any distributions required by subsection (a).

Sec. 7. In addition to any distributions required by section 6 of this chapter, money in the fund may be used for any of the following purposes:

(1) The payment of any obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15-2, IC 8-15-3, IC 8-15.5, or IC 8-15.7 in connection with the execution and performance of a public-private agreement under IC 8-15.5 or IC 8-15.7, including establishing reserves.

(2) Lease payments to the authority, if money for those payments is specifically appropriated by the general assembly.

(3) Distributions to the treasurer of state for deposit in the state highway fund, for the funding of any project in the department's transportation plan.

Sec. 8. (a) The total amount of distributions from the fund for projects or purposes that benefit a county traversed by the Indiana Toll Road may not be less than thirty-four percent (34%) of:

(1) the money that is transferred to the fund from the toll road fund under IC 8-15.5-11; plus

(2) the amount initially set aside in the administration account of the toll road fund to establish an escrow account to implement a written agreement entered into under IC 8-15.5-7-6 to fund reductions in, or refunds of, user fees imposed on Class 2 vehicles.

(b) The budget agency shall determine the amount of distributions required by this section. In making the determination, the budget agency shall include the following amounts:

(1) Amounts distributed to counties traversed by the Indiana Toll Road under section 6(a)(1) of this chapter.

(2) Money distributed to the northwest Indiana regional development authority under this chapter.

(3) Money distributed under section 6(a)(3) of this chapter.

(4) Projects carried out by the department in counties traversed by the Indiana Toll Road and funded with money distributed under section 6(a)(4)of this chapter.

(5) The amount initially set aside in the administration account of the toll road fund to establish an escrow account to implement a written agreement entered into under IC 8-15.5-7-6 to fund reductions in, or refunds of, user fees imposed on Class 2 vehicles.

(6) Money transferred to the administration account of the toll road fund under section 6(a)(5) of this chapter.

(7) Payments to the public employees' retirement fund required by section 6(a)(6) of this chapter.

SECTION 6. IC 8-14-15 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 15. Next Generation Trust Fund

Sec. 1. As used in this chapter, "authority" refers to the Indiana finance authority.

Sec. 2. As used in this chapter, "trust" refers to the next generation trust fund established under this chapter.

Sec. 3. As used in this chapter, "trustee" refers to the trustee of the trust designated under section 7 of this chapter.

Sec. 4. (a) The authority shall establish a next generation trust fund to hold title to proceeds transferred to the trust under IC 8-15.5-11 to be used exclusively for the provision of highways, roads, and bridges for the benefit of the people of Indiana and the users of those facilities.

(b) The trust shall be established as a charitable trust, separate from the state, but for the benevolent public purpose provided in this section.

(c) The trust consists of the proceeds transferred to the trust under IC 8-15.5-11 and any income that accrues from the investment of these proceeds.

Sec. 5. The chairman of the authority shall enter into a trust agreement on behalf of the authority with the treasurer of state in conformity with IC 30-4-2-1. Any provision of the trust agreement entered into under this section that is inconsistent with the provisions or intent of this chapter is void and of no further force or effect.

Sec. 6. A trust established under this chapter must be an irrevocable trust and may not be revoked or terminated by the authority or any other person, nor may it be amended or altered by the authority or any other person. However, the terms of the trust must provide that the trust terminates when no funds remain in the trust.

Sec. 7. The treasurer of state shall act as the trustee of the trust.

Sec. 8. (a) The trustee shall:

(1) administer and manage the trust;

(2) invest the money in the trust; and

(3) deposit in the trust any interest that accrues from the investment of these funds.

(b) Notwithstanding IC 5-13, the trustee shall invest the money in the trust not currently needed to meet the obligations of the trust in the same manner as money is invested by the public employees' retirement fund under IC 5-10.3-5. However, the trustee may not invest the money in the trust in equity securities. The trustee shall also comply with the prudent investor rule set forth in IC 30-4-3.5. The trustee may contract with investment management professionals, investment advisors, and legal counsel to assist in the investment of the trust and may pay the state expenses incurred under those contracts from the trust.

(c) IC 4-9.1-1-8 and IC 4-9.1-1-9 do not apply to a trust established under this chapter.

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

Sec. 9. IC 30-4 (trust code) applies to a trust established under this chapter.

Sec. 10. (a) The principal of the trust may not be diminished during the term of the trust.

(b) The income that accrues from investment of the trust shall be deposited in the trust.

(c) On March 15, 2011, March 15, 2016, and March 15 every five (5) years thereafter, the treasurer of state shall transfer all interest accruing to the trust to the major moves construction fund.

Sec. 11. The report required under IC 30-4-5-12 is a public record. The attorney general may petition for an accounting as permitted by IC 30-4-5-12.

Sec. 12. (a) This section applies if a person does any of the following with respect to a trust created under this chapter:

(1) Commits a breach of the trust.

(2) Violates the mandate of the trust or trust agreement.

(3) Violates a duty imposed by this chapter, the trust agreement, or IC 30-4.

(b) The attorney general may petition a court to impose one (1) or more of the remedies described in IC 30-4-5.5-1.

Sec. 13. Any records, files, or documents relating to the trust may be examined by the state board of accounts at a time selected by the state board of accounts. The trustee shall upon request of the state board of accounts:

(1) produce and submit any records, files, or documents related to the trust; and

(2) assist in every way the state board of accounts in its work in making an examination.

SECTION 7. IC 8-14-16 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 16. Local Major Moves Construction Funds

Sec. 1. This chapter applies only to the following counties:

(1) A county having a population of more than thirty-three thousand two hundred (33,200) but less than thirty-three thousand six hundred (33,600).

(2) A county having a population of more than thirty-four thousand nine hundred (34,900) but less than thirty-four thousand nine hundred fifty (34,950).

(3) A county having a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000).

(4) A county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000).

(5) A county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

(6) A county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000).

(7) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

Sec. 2. As used in this chapter, "fund" refers to a local major moves construction fund established under section 4 of this chapter.

Sec. 3. Money distributed to a county described in section 1 of this chapter from the major moves construction fund under IC 8-14-14-6(a)(3) shall be distributed by the county auditor among the county and each of the cities and towns in the county that is eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1, in the same proportion among the county, cities, and towns as funds are distributed from the motor vehicle highway account under IC 8-14-1.

Sec. 4. (a) Each county, city, or town that receives a distribution under section 3 of this chapter shall establish a local major moves construction fund.

(b) The fund consists of money distributed to the county, city, or town from the major moves construction fund under section 3 of this chapter.

(c) The fiscal officer of the county, city, or town shall administer the fund.

(d) Subject to subsection (f), the fiscal body of the county, city, or town may appropriate money in the fund for a purpose described in section 5 of this chapter. The appropriations of money in the fund must be included as a part of the annual budget for the calendar year in accordance with IC 6-1.1-17.

(e) Money remaining in the fund at the end of a particular calendar year remains in the fund and does not revert to any other fund.

(f) A county fiscal body must consult with the county executive before making an appropriation under this section.

Sec. 5. Money in the fund may be expended only for the following purposes:

(1) Construction of highways, roads, and bridges.

(2) In a county that is a member of the northwest Indiana regional development authority, or in a city or town located in such a county, any purpose for which the regional development authority may make expenditures under IC 36-7.5.

(3) Providing funding for economic development projects (as defined in IC 6-3.5-7-13.1(c)(1) or IC 6-3.5-7-13.1(c)(2)(A) through IC 6-3.5-7-13.1(c)(2)(K)).

(4) Matching federal grants for a purpose described in this section.

(5) Providing funding for interlocal agreements under IC 36-1-7 for a purpose described in this section.

(6) Providing the county's or city's contribution to the northwest Indiana regional development authority, in the case of a county described in section 1(3) of this chapter or a city described in IC 36-7.5-2-3(e),

SECTION 8. IC 8-15-2-1, AS AMENDED BY P.L.214-2005, SECTION 51, AND AS AMENDED BY P.L.235-2005, SECTION 115, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) In order to remove the handicaps and hazards on the congested highways in Indiana, to facilitate vehicular traffic throughout the state, to promote the agricultural and industrial development of the state, and to provide for the general welfare by the construction of modern express highways embodying safety devices, including center division, ample shoulder widths, long sight distances, multiple lanes in each direction, and grade separations at intersections with other highways and railroads, the authority may:

(1) **subject to subsection (d),** construct, reconstruct, maintain, repair, and operate toll road projects at such locations as shall be approved by the governor;

(2) in accordance with such alignment and design standards as shall be approved by the authority and subject to IC 8-9.5-8-10, issue toll road revenue bonds of the state payable solely from funds pledged for their payment, as authorized by this chapter, to pay the cost of such projects;

(3) finance, develop, construct, reconstruct, improve, or maintain ~~*public*~~ improvements ~~*such as roads and streets, sewerlines, waterlines, and sidewalks*~~ for manufacturing, ~~*or*~~ commercial, *or public transportation* activities within a county through which a toll road passes; ~~*if these improvements are within the county and are within an area that is located:*~~

~~*(A) ten (10) miles on either side of the center line of a toll road project; or*~~

~~*(B) two (2) miles on either side of the center line of any limited access highway that interchanges with a toll road project;*~~

(4) in cooperation with the Indiana department of transportation or a political subdivision, construct, reconstruct, or finance the construction or reconstruction of an arterial highway or an arterial street that is located within ~~*ten (10) miles of the center line of*~~ a *county through which a* toll road ~~*project*~~ *passes* and that:

(A) interchanges with a toll road project; or

(B) intersects with a road or a street that interchanges with a toll road project;

(5) ~~*assist in*~~ *finance improvements necessary for* developing ~~*existing*~~ transportation corridors in northwestern Indiana; and

(6) exercise these powers in participation with any governmental entity or with any individual, partnership, limited liability company, or corporation.

(b) Notwithstanding subsection (a), the authority shall not construct, maintain, operate, nor contract for the construction, maintenance, or operation of transient lodging facilities on, or adjacent to, such toll road projects.

(c) This chapter:

(1) applies to the authority only when acting for the purposes set forth in this chapter; and

(2) does not apply to the authority when acting under any other statute for any other purpose.

(d) Notwithstanding any other law, neither the authority nor an operator selected under IC 8-15.5 may carry out any of the following activities under this chapter unless the general assembly enacts a statute authorizing that activity:

(1) Carrying out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred (93,500).

(2) Imposing tolls on motor vehicles for use of the part of an interstate highway that connects a consolidated city and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

SECTION 9. IC 8-15-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The authority may do the following:

(1) Construct, maintain, repair, police, and operate toll road projects (as defined in this chapter), public improvements, and arterial streets and roads under section 1 of this chapter and establish rules for the use of any such toll road project, public improvement, or arterial street or road.

(2) Issue toll road revenue bonds of the state, payable solely from an allocation of money from the rural transportation road fund under IC 8-9.5-8-16 or from revenues or from the proceeds of bonds issued under this chapter and earnings thereon, or from all three (3), for the purpose of paying all or any part of the cost of any one (1) or more toll road projects or for the purpose of refunding any other toll road revenue bonds.

(3) Establish reserves from the proceeds of the sale of bonds or from other funds, or both, to secure the payment of the bonds.

(4) Fix and revise from time to time and charge and collect tolls for transit over each toll road project constructed by it.

(5) Acquire in the name of the state by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the right of condemnation in the manner as provided by this chapter, such public or private lands, including public parks, playgrounds or reservations, or parts thereof or rights therein, rights-of-way, property, rights, easements, and interests, as it may deem necessary for carrying out the provisions of this chapter. The authority may also:

(A) sell, transfer, and convey any such land or any interest therein so acquired, or any portion thereof, whether by purchase, condemnation, or otherwise, and whether such land or interest therein had been public or private, when the same shall no longer be needed for such purposes; and

(B) transfer and convey any such lands or interest therein as may be necessary or convenient for the construction and operation of any toll road project, or as otherwise required under the provisions of this chapter **to a state agency or political subdivision.**

(6) Designate the locations and establish, limit, and control such points of ingress to and egress from each toll road project as may be necessary or desirable in the judgment of the authority to ensure the proper operation and maintenance of such projects, and to prohibit entrance to such project from any point not so designated. The authority shall not grant, for the operation of transient lodging facilities, either ingress to or egress from any project, including the service areas thereof on which are located service stations and restaurants, and including toll plazas and paved portions of the right-of-way. The authority shall cause to be erected, at its cost, at all points of ingress and egress, large and suitable signs facing traffic from each direction on the toll road. Such signs shall designate the number and other designations, if any, of all United States or state highways of ingress or egress, the names of all Indiana municipalities with a population of five thousand (5,000) or more within a distance of seventy-five (75) miles on such roads of ingress or egress, and the distance in miles to such designated

municipalities.

(7) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, ~~or~~ IC 8-9.5-8, **or IC 8-15.5.** When the cost under any such contract or agreement, other than:

(A) a contract for compensation for personal services;

(B) a contract with the department under IC 8-9.5-8-7; ~~or~~

(C) a lease with the department under IC 8-9.5-8-8; **or**

(D) a contract, a lease, or another agreement under IC 8-15.5;

involves an expenditure of more than ten thousand dollars ($10,000), the authority shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in Marion County, Indiana, and in such other publications as the authority shall determine. Such notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids. Each bid shall contain the full name of every person or company interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of its proposal secured. The authority may reject any and all bids. A bond with good and sufficient surety shall be required by the authority of all contractors in an amount equal to at least fifty percent (50%) of the contract price, conditioned upon the faithful performance of the contract.

(8) Employ consulting engineers, superintendents, managers, and such other engineers, construction and accounting experts, bond counsel, other attorneys with the approval of the attorney general, and other employees and agents as may be necessary in its judgment to carry out the provisions of this chapter, and to fix their compensation. However, all such expenses shall be payable solely from the proceeds of toll road revenue bonds issued under the provisions of this chapter or from revenues.

(9) Receive and accept from any federal agency, subject to IC 8-23-3, grants for or in aid of the construction of any toll road project, and receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made, and repay any grant to the authority or to the department from a federal agency if such repayment is necessary to free the authority from restrictions which the authority determines to be in the public interest to remove.

(10) Establish fees, charges, terms, or conditions for any expenditures, loans, or other form of financial participation in projects authorized as public improvements on arterial streets and roads under section 1 of this chapter.

(11) Accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and agree to and comply with conditions attached to the aid.

(12) Accept transfer of a state highway to the authority under IC 8-23-7-23 and pay the cost of conversion of the state highway to a toll road project.

(13) Enter into contracts or leases with the department under IC 8-9.5-8-7 or IC 8-9.5-8-8 and in connection with the contracts or leases agree with the department for coordination of the operation and the repair and maintenance of toll road projects and tollways which are contiguous parts of the same public road, including joint toll collection facilities and equitable division of tolls.

(14) Enter into public-private agreements under IC 8-15.5 and do all acts and things necessary or proper to carry out the purposes set forth in IC 8-15.5.

~~(14)~~ **(15)** Do all acts and things necessary or proper to carry out this chapter.

SECTION 10. IC 8-15-2-5.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.2. The authority may not sell, convey, or mortgage a toll road project.**

SECTION 11. IC 8-15-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The authority may:

(1) fix, revise, charge, and collect tolls for the use of each toll road project by any person, partnership, association, limited liability company, or corporation desiring the use of any part thereof, including the right-of-way adjoining the paved portion and for placing thereon telephone, telegraph, electric light, or power lines; ~~and~~

(2) fix the terms, conditions, and rates of charge for such use, **including assessments for the failure to pay required tolls,** subject, however, to the state's police power; **and**

(3) collect tolls, user fees, or other charges through manual or nonmanual methods, including, but not limited to, automatic vehicle identification systems, electronic toll collection systems, and, to the extent permitted by law, including rules adopted by the authority under IC 8-15-2-17.2(a)(10), global positioning systems and photo or video based toll collection or toll collection enforcement systems.

(b) Notwithstanding subsection (a), no toll or charge shall be made by the authority **under this section or under a public-private agreement entered into under IC 8-15.5** for:

(1) the operation of temporary lodging facilities located upon or adjacent to any project, nor may the authority itself operate or gratuitously permit the operation of such temporary lodging facilities by other persons without any toll or charge; or

(2) placing in, on, along, over, or under such project, such telephone, telegraph, electric light or power lines, equipment, or facilities as may be necessary to serve establishments located on the project or as may be necessary to interconnect any public utility facilities on one (1) side of the toll road project with those on the other side.

(c) All contracts executed by the authority shall be preserved in the principal office of the authority.

(d) In the case of a toll road project that is not leased to the department under IC 8-9.5-8-7, the tolls shall be fixed and adjusted for each toll road project so that the aggregate of the tolls from the project, together with other revenues that are available to the authority without prior restriction or encumbrance, will at least be adequate to pay:

(1) the cost of operating, maintaining, and repairing the toll road project, including major repairs, replacements, and improvements;

(2) the principal of and the interest on bonds issued in connection with the toll road project, as the principal and interest becomes due and payable, including any reserve or sinking fund required for the project; and

(3) the payment of principal of and interest on toll road bonds issued by the authority in connection with any other toll road project, including any reserve or sinking fund required for the project, but only to the extent that the authority provides by resolution and subject to the provisions of any trust agreement relating to the project.

(e) Not less than one (1) year before the date that final payment of all such bonds, interest, and reimbursement is expected by the chairman of the authority to be completed, the chairman shall notify the state budget committee in writing of the expected date of final payment.

(f) Such tolls shall not be subject to supervision or regulation by any other commission, board, bureau, or agency of the state.

(g) The tolls, rents, and all other revenues derived by the authority from the toll road project, **except those received in accordance with a public-private agreement under IC 8-15.5,** shall be used as follows:

(1) To pay the cost of operating, maintaining, and repairing the toll road project, including major repairs, replacements, and improvements, to the extent that those costs are not paid out of other funds.

(2) To the extent provided for in the resolution authorizing the issuance of bonds under this chapter or in the trust agreement securing the bonds, to pay:

(A) the principal of and interest on any bonds as the principal

and interest become due; or

(B) the redemption price or purchase price of the bonds retired by call or purchase.

(3) Except as prohibited by the resolution authorizing the issuance of bonds under this chapter or the trust agreement securing them, for any purpose relating to any toll road project, including the subject toll road project, as the authority provides by resolution.

(h) Neither the resolution nor any trust agreement by which a pledge is created needs to be filed or recorded except in the records of the authority.

(i) The use and disposition of moneys to the credit of any sinking fund shall be subject to the provisions of any resolution or resolutions authorizing the issuance of any bonds or of any trust agreement. Except as may otherwise be provided in this chapter or in any resolution or any trust agreement, any sinking fund shall be a fund for all bonds without distinction or priority of one over another, subject, however, to such priorities as may arise from prior pledges.

(j) In the case of a toll road project that is leased to the department under IC 8-9.5-8-8, the lease must require that the department fix tolls for the toll road project that comply with IC 8-9.5-8-8(c)(6).

(k) User fees (as defined in IC 8-15.5-2-10) for a toll road project that is subject to a public-private agreement under IC 8-15.5 shall be set in accordance with IC 8-15.5-7.

SECTION 12. IC 8-15-2-14.5, AS AMENDED BY P.L.214-2005, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14.5. **(a)** Subject to the provisions and requirements of any trust agreement providing for the issuance of toll road revenue bonds and only to the extent permitted by such trust agreement, the authority shall fix the tolls for any toll road under its jurisdiction.

(b) Subsection (a) does not apply to tolls fixed, authorized, or established in accordance with a public-private agreement under IC 8-15.5.

SECTION 13. IC 8-15-2-14.7, AS ADDED BY P.L.214-2005, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14.7. (a) As used in this section, "development authority" refers to the development authority established under IC 36-7.5-2-1.

~~(b) Subject to the trust agreement of any outstanding bonds and subject to the requirements of subsection (d), the authority shall distribute to the development authority in calendar year 2006 and calendar year 2007 from revenues accruing to the authority from the toll road at least five million dollars ($5,000,000) and not more than ten million dollars ($10,000,000) each year. The amount of the distribution for a year shall be determined by the authority. The amount to be distributed each year shall be distributed in equal quarterly amounts before the last business day of January, April, July, and October of 2006 and 2007. The amounts distributed under this subsection shall be deposited in the development authority fund established under IC 36-7.5-4-1.~~

~~(c) Subject to the trust agreement of any outstanding bonds and subject to the requirements of subsections (d) and (e), after 2007, the authority may distribute to the development authority amounts from revenues accruing to the authority from the toll road. The amount of any distribution for a year shall be determined by the authority. Any amounts to be distributed for the year under this subsection shall be distributed in equal quarterly amounts before the last business day of January, April, July, and October of the year. Any amounts distributed under this subsection shall be deposited in the development authority fund established under IC 36-7.5-4-1.~~

~~(d) A distribution may be made by the authority~~ **(b) An appropriation made by the general assembly** to the development authority ~~under subsection (b) or (c)~~ **may be distributed to the development authority** only if all transfers required from cities and counties to the development authority under IC 36-7.5-4-2 have been made.

~~(e) A distribution may be made by the authority~~ **(c) An appropriation made by the general assembly to the development authority may be distributed** to the development authority ~~under subsection (c)~~ only after:

(1) the budget committee has reviewed; ~~the development authority's comprehensive strategic development plan under IC 36-7.5-3-4~~ and

(2) the director of the office of management and budget has approved;

the comprehensive strategic development plan **submitted in accordance with IC 36-7.5-3-4.**

~~(f)~~ **(d)** If the Indiana Toll Road is sold or leased before January 1, 2008 (other than a lease to the department), and the sale or lease agreement does not require the purchaser or lessee to continue making the distributions required by subsection (b), the treasurer of state shall pay ~~an amount equal to the greater of zero (0) or the result of:~~

~~(1) twenty million dollars ($20,000,000), minus~~

~~(2) any amounts transferred to the development authority under this subsection before the sale or lease,~~

~~from the state general fund~~ **the amount, if any, appropriated by the general assembly** to the development authority fund established under IC 36-7.5-4-1.

~~(g)~~ **(e)** Amounts distributed or paid to the development authority under this section may be used for any purpose of the development authorized under IC 36-7.5.

~~(h) The amounts necessary to make any distributions or payments required or authorized by this section are appropriated.~~

SECTION 14. IC 8-15-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) All moneys received pursuant to the authority of this chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds, to be held and applied solely as provided in this chapter. Such funds shall be kept in depositories as selected by the authority and may be invested until expended, all as provided by law.

(b) The resolution authorizing the issuance of bonds of any issue or the trust agreement securing such bonds shall provide that any officer to whom, or any bank or trust company to which, such moneys shall be paid shall:

(1) act as trustee of such moneys; and

(2) hold and apply the same for the purposes of this chapter, subject to such regulations as this chapter and such resolution or trust agreement may provide.

(c) This section does not apply to money paid or received with respect to a toll road project that is the subject of a public-private agreement under IC 8-15.5.

SECTION 15. IC 8-15-2-17.2, AS AMENDED BY P.L.151-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.2. (a) Notwithstanding IC 9, the authority may adopt rules:

(1) Establishing weight and size limitations for vehicles using a toll road project, subject to the following:

(A) The operator of any vehicle exceeding any of the maximum allowable dimensions or weights as set out by the authority in rules and regulations shall apply to the authority in writing, for an application for a special hauling permit, which application must be in compliance with all the terms thereof, and which application must be received at least seven (7) days prior to the time of permitted entry should such permit be granted. Such permit, if granted, will be returned to the applicant in duplicate, properly completed and numbered, and the driver of the vehicle shall have a copy to present to the toll attendant on duty at the point of entry.

(B) The authority shall assess a fee for issuing a special hauling permit. In assessing the fee, the authority shall take into consideration the following factors:

(i) The administrative cost of issuing the permit.

(ii) The potential damage the vehicle represents to the project.

(iii) The potential safety hazard the vehicle represents.

(2) Establishing the minimum speed that a motor vehicle may be driven on the interstate defense network of dual highways.

(3) Designating one-way traffic lanes on a toll road project.

(4) Determining the manner of operation of motor vehicles entering and leaving traffic lanes on a toll road project.

(5) Determining the regulation of U-turns, of crossing or entering medians, of stopping, parking, or standing, and of passing motor vehicles on a toll road project.

(6) Determining the establishment and enforcement of traffic control signs and signals for motor vehicles in traffic lanes,

acceleration and deceleration lanes, toll plazas, and interchanges on a toll road project.

(7) Determining the limitation of entry to and exit from a toll road project to designated entrances and exits.

(8) Determining the limitation on use of a toll road project by pedestrians and aircraft and by vehicles of a type specified in such rules and regulations.

(9) Regulating commercial activity on a toll road project, including but not limited to:

(A) the offering or display of goods or services for sale;

(B) the posting, distributing, or displaying of signs, advertisements, or other printed or written material; and

(C) the operation of a mobile or stationary public address system.

(10) Establishing enforcement procedures and making assessments for the failure to pay required tolls.

(b) A person who violates a rule adopted under this section commits a Class C infraction. However, a violation of a weight limitation established by the authority under this section is:

(1) a Class B infraction if the total of all excesses of weight under those limitations is more than five thousand (5,000) pounds but not more than ten thousand (10,000) pounds; and

(2) a Class A infraction if the total of all excesses of weight under those limitations is more than ten thousand (10,000) pounds.

(c) It is a defense to the charge of violating a weight limitation established by the authority under this section that the total of all excesses of weight under those limitations is less than one thousand (1,000) pounds.

(d) The court may suspend the registration of a vehicle that violated:

(1) a size or weight limitation established by the authority under this section; **or**

(2) a rule adopted under subsection (a)(10);

for a period of not more than ninety (90) days.

(e) Upon the conviction of a person for a violation of a weight or size limitation established by the authority under this section, the court may recommend suspension of the person's current chauffeur's license only if the violation was committed knowingly.

SECTION 16. IC 8-15-2-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) The authority may, after adopting a resolution and after receiving the governor's approval, at any time determine under IC 8-23-7 that a toll road project constructed or operated by the authority, **other than a toll road project that is subject to a public-private agreement under IC 8-15.5,** should become a part of the system of state highways free of tolls or become a tollway under IC 8-15-3.

(b) Any resolution as to any project described in subsection (a) shall not become effective until all bonds to which the revenues of any project were pledged for payment, together with all interest thereon, is paid, or a sufficient amount for the payment of all bonds and the interest thereon to maturity is set aside in trust for the benefit of bondholders.

(c) Until any resolution is adopted by the authority under subsection (a) and becomes effective as provided in subsection (b), **and subject to the terms of any public-private agreement under IC 8-15.5,** any project constructed by the authority or its predecessors remains under the jurisdiction of the authority and the authority shall continue to maintain and operate the project and levy and collect tolls as provided in this chapter. ~~Subject to any agreement entered into by the Secretary of Commerce of the United States, acting by and through the federal highway administrator, the Indiana toll road commission, and the state, acting by and through the Indiana department of transportation,~~ Tolls on any project may be continued after the date of the payment of the principal of and interest on bonds issued for the construction of that project.

SECTION 17. IC 8-15-2-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. **(a) Except as provided in subsection (b), and** notwithstanding any other provision of this chapter, funds generated by tolls or any other means from a toll road project that was in existence and in use on or before January 1, 1986, shall be used exclusively for purposes that are authorized and described in this chapter.

(b) If the authority enters into a public-private agreement with respect to a toll road project under IC 8-15.5, funds generated by tolls or any other means from that project shall be used as provided in IC 8-15.5.

SECTION 18. IC 8-15-2-28 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 28. If the authority is a party to a public-private agreement under IC 8-15.5, the authority may authorize the operator under that agreement to exercise any or all of the powers specified in sections 1, 6, 18, and 24 of this chapter, subject to the terms of that agreement.**

SECTION 19. IC 8-15-2-29 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 29. A United States flag shall be displayed at the primary administrative building of the Indiana Toll Road.**

SECTION 20. IC 8-15-3-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. "Operator" refers to one (1) or more private individuals or entities that enter into a public-private agreement to do one (1) or more of the following with respect to one (1) or more tollways:**

(1) Planning.
(2) Design.
(3) Development.
(4) Construction.
(5) Reconstruction.
(6) Maintenance.
(7) Repair.
(8) Financing.
(9) Operation.

A public entity may provide services to an operator as a subcontractor or subconsultant without affecting the private status of the operator and the entity's or operator's ability to enter into a public-private agreement.

SECTION 21. IC 8-15-3-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. "Public-private agreement" has the meaning set forth in IC 8-15.7-2-15.**

SECTION 22. IC 8-15-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. As used in this chapter, "tollway" ~~means~~ **includes any combination or part of:**

(1) an express highway, superhighway, **bridge, tunnel,** or motor way**, including express lanes and managed lanes,** constructed under this chapter **or IC 8-15.7** or, **subject to section 10 of this chapter,** converted to a tollway under IC 8-23-7-22; ~~The term includes~~

(2) any bridge, tunnel, overpass, underpass, interchange, **structure, ramp, access road, service road,** entrance plaza, approach, tollhouse, **utility corridor, toll gantry, rest stop,** service station, or administration, storage, or other buildings or facilities, **including temporary facilities and buildings, facilities, and structures that will not be tolled,** that the department considers **appurtenant to or** necessary or desirable for the **financing, construction,** operation, ~~of the tollway. The term also includes~~ **or maintenance of one (1) or more of the items described in subdivision (1); and**

(3) any subsequent improvement, betterment, enlargement, extension, or reconstruction of ~~a tollway, including any section, which is~~ **one (1) or more items described in this section, including any nontolled part, that are** separately designated by name or number.

SECTION 23. IC 8-15-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) **Subject to subsection (e),** the governor must approve the location of any tollway.

(b) The department may, **in any combination, plan, design, develop,** construct, reconstruct, maintain, repair, police, **finance,** and operate tollways, public improvements, and arterial streets and roads at those locations that the governor approves.

(c) The department may, **in any combination, plan, design,** develop, construct, reconstruct, improve, **finance, operate, repair,** or maintain public improvements such as roads and streets, sewer

lines, ~~and~~ water lines, **and other utilities** if these improvements are:

(1) adjacent **or appurtenant** to a tollway; **or**

(2) necessary or desirable for the financing, construction, operation, or maintenance of a tollway.

(d) The department may, **in any combination, plan, design, develop,** construct, reconstruct, ~~or~~ **improve, maintain, repair, operate, or** finance the construction or reconstruction of an arterial highway or an arterial street that:

(1) is adjacent to, appurtenant to, or interchanges with a tollway; or

(2) intersects with a road or street that interchanges with a tollway.

(e) Notwithstanding any other law, the governor, the department, or an operator may not carry out any of the following activities under this chapter unless the general assembly enacts a statute authorizing that activity:

(1) Approve the location of a tollway, other than Interstate Highway 69 between Interstate Highway 64 and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

(2) Carry out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred (93,500).

(3) Impose tolls on motor vehicles for use of the part of an interstate highway that connects a consolidated city and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

SECTION 24. IC 8-15-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. The department may fix, revise, charge, ~~and~~ collect, **retain, and use** tolls for transit over each tollway ~~the department constructs or converts from a state highway to a tollway under IC 8-23-7-22.~~ **or part of a tollway. The tolls and the setting of toll rates are not subject to supervision or regulation by any other commission, board, bureau, or agency of the state.**

SECTION 25. IC 8-15-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. The department may transfer to the tollway **or lease, license, or otherwise transfer to the authority or the operator of a tollway** any real property or interest in real property acquired by it under **section 13 or 31 of this chapter,** IC 8-23-7, or otherwise that is necessary, **desirable,** or convenient for the **financing,** construction, **maintenance,** and operation of any tollway **or part of a tollway,** or as otherwise required under this chapter.

SECTION 26. IC 8-15-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) Except as provided in subsection (b), the department may designate the locations and establish, limit, and control points of ingress and egress from each tollway as necessary or desirable to:

(1) ensure the proper operation and maintenance of the tollway;

(2) finance the tollway;

~~(2)~~ **(3)** prohibit entrance to the tollway from any point that is not designated as an entrance; and

~~(3)~~ **(4)** provide for and permit the interconnection of a tollway with a toll road that is leased or operated by the department.

(b) The department may not grant ingress to or egress from any tollway, service area, or toll collection area having direct access to the tollway for the operation of transient lodging facilities, including the service areas on which are located service stations and restaurants and toll plazas and paved parts of the right-of-way.

(c) The department shall erect ~~at its cost,~~ at all points of ingress and egress ~~large and~~ suitable signs facing traffic from each direction on the tollway. These signs must designate the number and other designations, if any, of all United States or state highways of ingress or egress, the names of all Indiana municipalities having a population of at least five thousand (5,000) within a distance of seventy-five (75) miles on the roads of ingress or egress, and the distance in miles to those designated municipalities.

SECTION 27. IC 8-15-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. The department may make and enter into all **leases, licenses, conveyances,** contracts, and agreements necessary or incidental to the performance of the department's duties and the execution of the department's powers under this chapter **and IC 8-15.7.**

SECTION 28. IC 8-15-3-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. The department may employ consulting engineers, superintendents, managers, other engineers, construction ~~and~~ **experts, financial advisers,** accounting experts, attorneys, ~~(with the approval of the attorney general),~~ and other **consultants, contractors,** employees, and agents necessary to carry out this chapter **or IC 8-15.7,** and fix their compensation.

SECTION 29. IC 8-15-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. The department may receive and accept **in any combination** from any federal, **state, or local** agency, subject to ~~IC 8-9.5-6-1,~~ **IC 8-23-3, loan proceeds, proceeds from lines of credit, proceeds from credit guarantees, and** grants for or in aid of the **planning, design,** construction, **financing, repair, rehabilitation, expansion, improvement, operation, or maintenance** of **all or part of** any tollway, and receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which those **loan proceeds, proceeds from lines of credit, proceeds from credit guarantees,** grants, or contributions are made. **The department may distribute any part of loan proceeds, proceeds from lines of credit, proceeds from credit guarantees, and grants received under this section to an operator as permitted by the terms of the loan, line of credit, credit guarantee, or grant.** The department, **the authority, or an operator, as required by a public-private agreement,** shall repay any **loan, line of credit, credit guarantee, or** grant from a federal, **state, or local** agency, if a repayment is necessary to free the department from restrictions that the department determines to be in the public interest to remove.

SECTION 30. IC 8-15-3-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. The department may accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, and any other financing and assistance from any source and agree to and comply with conditions attached to it. **Subject to the conditions agreed to by the department, the department may distribute any gifts, devises, bequests, grants, loans, appropriations, revenue sharing, and any other financing and assistance received under this section to an operator, as set forth in a public-private agreement.**

SECTION 31. IC 8-15-3-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) The exercise of the powers granted by this chapter **to the department or the authority** must be in all respects for:

(1) the benefit of the people of Indiana;

(2) the increase of the commerce and prosperity of Indiana; and

(3) the improvement of the health and living conditions of the people of Indiana.

(b) Since the operation and maintenance of a tollway by the department **or the authority** constitutes the performance of essential governmental functions, **neither** the department **nor the authority** is ~~not~~ required to pay any taxes or assessments upon a tollway or any property acquired or used by the department under this chapter **or IC 8-15.7** or upon the income from a tollway.

(c) The operator under a public-private agreement is not required to pay taxes or assessments upon a tollway, any property or property interest acquired by the operator under a public-private agreement, or any possessory interest in the tollway or in property granted or created by the public-private agreement under this chapter or IC 8-15.7.

(d) An operator or any other person purchasing tangible personal property for incorporation into or improvement of a structure or facility constituting or becoming part of the land included in:

(1) a tollway; or

(2) property granted or created by the public-private agreement;

is entitled to the exemption from gross retail tax and use tax provided under IC 6-2.5-4-9(b) and IC 6-2.5-3-2(c), respectively,

with respect to that tangible personal property.

SECTION 32. IC 8-15-3-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) Except as provided in subsection (b), the department may:

(1) fix, revise, charge, and collect tolls, **fees, or charges** for:

(A) the use of a tollway or any part of a tollway, including the right-of-way adjoining the paved part of the tollway; ~~and~~

(B) placing on a tollway or part of a tollway telephone, telegraph, electric light, **cable, communication, gas, water, sewer,** or power lines; ~~and~~

(C) the initiation, administration, and maintenance of customer accounts, late payment procedures, credit card and other electronic transactions, and enforcement actions for collection of unpaid amounts; and

(D) equipment used by customers in connection with electronic tolling, including transponders;

(2) fix the terms, conditions, and rates of charge for use of a tollway; **and**

(3) retain and use tolls, fees, or charges collected in accordance with this article.

(b) A toll or charge may not be made by the department for the following:

(1) The operation of temporary lodging facilities located upon or adjacent to a tollway.

(2) Placing in, on, along, over, or under a tollway any telephone, telegraph, electric light, **cable, communication, gas, water, sewer,** or power lines, equipment, or facilities that are necessary to serve establishments located on the tollway or that are necessary to interconnect any public utility facilities on one (1) side of the tollway with those on the other side.

~~(c) Tollway tolls that are collected shall be deposited in a special fund so that the tolls from each tollway project may be accounted for and used only for the purposes of operating and maintaining the facility from which the tolls were collected.~~

~~(d)~~ **(c)** The department ~~shall~~ **may** fix the tolls for a tollway ~~so that, to the extent feasible, the tolls for any class of traffic are substantially uniform according to the mileage between interchanges. A reduced rate of toll is not allowed within a class except through the use of commutation or other tickets or privileges based upon frequency or volume of use.~~ **by establishing maximum amounts and may provide that tolls or any maximum tolls established, and any increases or decreases to those tolls or maximum tolls, may be based on the indices or methodologies that the department considers appropriate. The department may set an increased toll for any class of traffic for any lane or other part of a tollway if the department determines that an increased toll is necessary or appropriate for financing the tollway or to reduce traffic congestion, increase mobility, improve connectivity, promote fuel conservation, achieve operating efficiencies, or promote public safety. The department shall specify the times or conditions under which an increased toll will be imposed. A reduced rate of toll is not allowed within a class, except:**

(1) through the use of commutation or other tickets or privileges based upon frequency or volume of use;

(2) as permitted under an electronic tolling program;

(3) as permitted under a managed lane program under section 27.5 of this chapter;

(4) as necessary, desirable, or appropriate for financing the tollway;

(5) on a part of a tollway designated by the department, in its discretion, as an area free of tolls;

(6) as determined appropriate by the department; or

(7) as permitted under a public-private agreement.

(d) A person that passes a toll gate or other area of a tollway where a toll, charge, or fee is due without paying that amount commits a Class C infraction.

SECTION 33. IC 8-15-3-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) The department may adopt rules under IC 4-22-2 for the following:

(1) The control and regulation of traffic on a tollway.

(2) The protection and preservation of property under the department's **or operator's** jurisdiction and control.

(3) The maintenance and preservation of good order within the property under the department's **or operator's** control.

(b) Rules adopted under this chapter must provide that law enforcement officers be afforded ready access, while in the performance of their official duties, to all property under the department's jurisdiction without the payment of tolls.

(c) A person who violates a rule adopted under this section commits a Class C infraction.

SECTION 34. IC 8-15-3-27.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 27.5. (a) The rules adopted under section 26 or 27 of this chapter may include restrictions on the use of one (1) or more lanes on any part of a tollway as necessary, appropriate, or desirable for financing the tollway or to reduce congestion, increase mobility, promote fuel conservation, achieve operating efficiencies, or promote public safety. The restrictions may include limiting use of one (1) or more lanes to private vehicles, high occupancy vehicles, vehicles that participate in an electronic tolling program, trucks, commercial vehicles, special fuel vehicles, transit vehicles, or vehicles that pay a higher toll for exclusive use of a dedicated lane. The rules may require a person eligible to use a restricted lane to obtain the permit specified by the department or an operator, as permitted under a public-private agreement.**

(b) The department may require that an electronic device or other identification device specified by the department or by an operator as permitted under a public-private agreement be maintained in a vehicle using a restricted lane on a tollway.

(c) The department may construct barriers or implement other design, construction, or operational features to implement a managed lane, express lane, or other program under this section.

SECTION 35. IC 8-15-3-27.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 27.7. (a) The rules adopted under section 26 or 27 of this chapter may establish an electronic tolling program. The rules must provide at least the following:**

(1) A participant must enter into a written agreement containing the terms and conditions approved by the department.

(2) An agreement must require the participant to do the following:

(A) Establish the account specified by the department and maintain the balance of funds in the account specified by the department.

(B) Hold and use any device provided to register use of a tollway that is chargeable to the participant's account in the manner specified in the rules and participant's agreement.

(C) Pay the fees, charges, and tolls specified by the department or an operator, as permitted under a public-private agreement.

(D) Comply with any other necessary or appropriate terms and conditions specified by the department or an operator, as permitted under a public-private agreement.

(3) A method for resolving disputed charges with account holders, including an agreement by the account holder to hold the department and its agents harmless for the payment of any unpaid financial obligation incurred by the account holder.

(4) The program will comply with all applicable federal and state laws, regulations, and rules regulating credit transactions between the entity holding the account and the account holder.

(5) Notice will be provided to the participant of all federal and state privacy, credit, and other laws, regulations, and policies applicable to an account and the program.

(b) The department may establish reasonable fees and charges to be charged to account holders and business entities participating in the electronic tolling program and to recover costs of administration, account initiation and maintenance, late payments, credit card and other electronic transactions, enforcement, and improvement of the program. The fees and charges shall be deposited in the appropriate special funds account for the tollways covered by the program, as specified by the department, or used, retained, or deposited as permitted

under a public-private agreement.

(c) The identifying credit and tollway use information of an electronic tolling program participant may not be used by the department or an operator for commercial purposes not related to the tollway.

SECTION 36. IC 8-15-3-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. **Subject to any public-private agreement that applies to a tollway, including terms applicable to the financing of the tollway,** the department may, after issuing an order and after receiving the governor's approval, at any time determine that a tollway under its jurisdiction should become a part of the system of state highways free of tolls.

SECTION 37. IC 8-15-3-34 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 34. The department may arrange for the use and employment of police officers to police a tollway. The police officers employed under this section are vested with all necessary police powers to enforce state laws. A police officer employed under this section has the same powers within the property limits of a tollway as a law enforcement officer (as defined in IC 35-41-1-17) within the law enforcement officer's jurisdiction. A warrant of arrest issued by the proper authority of the state may be executed within the property limits of the tollway by a police officer employed by the department or an operator.**

SECTION 38. IC 8-15-3-35 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 35. (a) If a public-private agreement is entered into under IC 8-15.7 with respect to a project, the department may authorize:**

(1) the authority to exercise all or a part of the powers of the department under this chapter necessary or desirable to accomplish the purposes of this chapter or IC 8-15.7; and

(2) the operator under the public-private agreement to exercise all or a part of the powers of the department under sections 9, 16, 29, and 30 of this chapter under the public-private agreement.

(b) The department may authorize the authority to exercise all or a part of the powers of the department under this chapter necessary or desirable to accomplish the purposes of this chapter.

SECTION 39. IC 8-15.5 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

ARTICLE 15.5. PUBLIC-PRIVATE AGREEMENTS FOR TOLL ROAD PROJECTS

Chapter 1. General Provisions

Sec. 1. The powers conferred by this article are in addition and supplemental to the powers conferred by any other law. If any other law or rule is inconsistent with this article, this article is controlling as to any public-private agreement entered into under this article.

Sec. 2. (a) This article contains full and complete authority for public-private agreements between the authority and a private entity. Except as provided in this article, no law, procedure, proceeding, publication, notice, consent, approval, order, or act by the authority or any other officer, department, agency, or instrumentality of the state or any political subdivision is required for the authority to enter into a public-private agreement with a private entity under this article, or for a toll road project that is the subject of a public-private agreement to be constructed, acquired, maintained, repaired, operated, financed, transferred, or conveyed.

(b) Notwithstanding any other law, after August 1, 2006, neither the authority nor the department may:

(1) issue a request for proposals for; or

(2) enter into;

a public-private agreement under this article that would authorize an operator to impose tolls for the operation of motor vehicles on all or part of a project, unless the general assembly adopts a statute authorizing the imposition of tolls.

(c) Notwithstanding any other law, neither the authority nor an operator may carry out any of the following activities under this article unless the general assembly enacts a statute authorizing that activity:

(1) Carrying out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred (93,500).

(2) Imposing tolls on motor vehicles for use of the part of an interstate highway that connects a consolidated city and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

Sec. 3. The general assembly finds and determines that:

(1) the state has limited resources to fund the maintenance and expansion of the state transportation system, including toll roads, and therefore alternative funding sources should be developed to supplement public revenue sources;

(2) the Indiana finance authority should be authorized to solicit, evaluate, negotiate, and administer agreements with the private sector for the purposes described in subdivision (1); and

(3) it is necessary to serve the public interest and to provide for the public welfare by adopting this article for the purposes described in this article.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Authority" refers to the Indiana finance authority.

Sec. 3. "Department" refers to the Indiana department of transportation.

Sec. 4. "Offeror" means a private entity that has submitted a proposal for a public-private agreement under this article.

Sec. 5. "Operator" means a private entity that has entered into a public-private agreement with the authority.

Sec. 6. "Private entity" means any individual, sole proprietorship, corporation, limited liability company, joint venture, general partnership, limited partnership, nonprofit entity, or other private legal entity. A public agency may provide services to a private entity without affecting the private status of the private entity and the ability to enter into a public-private agreement.

Sec. 7. "Project" or "toll road project" has the meaning set forth in IC 8-15-2-4(4).

Sec. 8. "Public-private agreement" means an agreement under this article between a private entity and the authority under which the private entity, acting on behalf of the authority as lessee, licensee, or franchisee, will plan, design, acquire, construct, reconstruct, improve, extend, expand, lease, operate, repair, manage, maintain, or finance a toll road project.

Sec. 9. "Request for proposals" means all materials and documents prepared by or on behalf of the authority to solicit proposals from offerors to enter into a public-private agreement.

Sec. 10. "User fees" means the rates, tolls, or fees imposed for the use of, or incidental to, all or any part of a toll road project under a public-private agreement.

Chapter 3. Authority to Enter Into Public-Private Agreements

Sec. 1. Subject to the other provisions of this article, the authority and a private entity may enter into a public-private agreement with respect to a toll road project. Subject to the requirements of this article, a public-private agreement may provide that the private entity is partially or entirely responsible for any combination of the following activities with respect to the project:

(1) Planning.

(2) Design.

(3) Acquisition.

(4) Construction.

(5) Reconstruction.

(6) Improvement.

(7) Extension or expansion.

(8) Operation.

(9) Repair.

(10) Management.

(11) Maintenance.

(12) Financing.

Chapter 4. Selection of Operator by Request for Proposals

Sec. 1. Before entering into a public-private agreement under this article, the authority must issue a request for proposals as set forth in this chapter. A request for proposals for a toll road project may be issued by the authority in one (1) or more phases and may include a request for qualifications.

Sec. 2. A request for proposals issued by the authority must include the following:

(1) The factors or criteria that will be used in evaluating the proposals.

(2) A statement that a proposal must be accompanied by evidence of financial responsibility as considered appropriate and satisfactory by the authority.

(3) A statement concerning whether discussions may be conducted with the offerors for the purpose of clarification to assure full understanding of and responsiveness to the solicitation requirements.

(4) A statement concerning any other information that the authority may consider in evaluating the proposals.

(5) A statement that, except as otherwise required by law or under order from a court with jurisdiction, the authority may not disclose the contents of proposals during:

(A) discussions; or

(B) negotiations;

with eligible offerors to other eligible offerors.

Sec. 3. Notice of a request for proposals shall be given by publication in accordance with IC 5-3-1.

Sec. 4. As provided in a request for proposals, discussions may be conducted with the offerors for the purpose of clarification to assure full understanding of and responsiveness to the solicitation requirements.

Sec. 5. Eligible offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals.

Sec. 6. (a) The authority may not disclose the contents of proposals during discussions or negotiations with eligible offerors.

(b) The authority may, in its discretion in accordance with IC 5-14-3, treat as confidential all records relating to discussions or negotiations between the authority and eligible offerors if those records are created while discussions or negotiations are in progress.

(c) Notwithstanding subsections (a) and (b), and with the exception of parts that are confidential under IC 5-14-3, the terms of the selected offer negotiated under this article shall be available for inspection and copying under IC 5-14-3 after negotiations with the offerors have been completed.

(d) When disclosing the terms of the selected offer under subsection (c), the authority shall certify that the information being disclosed accurately and completely represents the terms of the selected offer.

Sec. 7. (a) The authority shall negotiate with one (1) or more responsible offerors who submit proposals that are determined to be reasonably capable of being selected for a public-private agreement and may seek to obtain a final offer from one (1) or more responsible offerors.

(b) In determining whether one (1) or more responsible offerors are reasonably capable of being selected for a public-private agreement, the authority must consider all the following:

(1) The responsible offeror's expertise, qualifications, competence, skills, and know-how to perform its obligations under the proposed public-private agreement in accordance with the public-private agreement.

(2) The financial strength of the responsible offeror, including its capitalization.

(3) The experience of the responsible offeror in operating toll roads and highways and other similar projects and the quality of the responsible offeror's past or present performance on other similar or equivalent projects.

(4) The integrity, background, and reputation of the responsible offeror, including the absence of criminal, civil, or regulatory claims or actions against the responsible offeror.

(c) The requirements set forth in subsection (b) also apply to the approval by the authority of any successor or replacement operator under the public-private agreement after the execution of the public-private agreement under section 11 of this chapter.

(d) In making its determination under subsection (b) or (c), the authority shall consider the offeror or operator as well as any private entity that controls the actions of the offeror or operator.

Sec. 8. After the final offers from responsible offerors have been negotiated under section 7 of this chapter, the authority shall:

(1) make a preliminary selection of an offeror as the operator for the related toll road project, whose final offer is referred to in this article as the "selected offer"; or

(2) terminate the request for proposal process.

Sec. 9. If the authority makes a preliminary selection of an operator under section 8 of this chapter, the authority shall schedule a public hearing on the preliminary selection and publish notice of the hearing one (1) time in accordance with IC 5-3-1 at least seven (7) days before the hearing. The notice must include the following:

(1) The date, time, and place of the hearing.

(2) The subject matter of the hearing.

(3) A description of the related toll road project and of the public-private agreement to be awarded.

(4) The identity of the offeror that has been preliminarily selected as the operator for the project.

(5) The address and telephone number of the authority.

(6) A statement indicating that, subject to section 6 of this chapter, and except for those portions that are confidential under IC 5-14-3, the selected offer and an explanation of the basis upon which the preliminary selection was made are available for public inspection and copying at the principal office of the authority during regular business hours.

Sec. 10. (a) Subject to section 6 of this chapter, and except for those parts that are confidential under IC 5-14-3, the selected offer and a written explanation of the basis upon which the preliminary selection was made shall be made available for inspection and copying in accordance with IC 5-14-3 at least seven (7) days before the hearing scheduled under section 9 of this chapter.

(b) At the hearing, the authority shall allow the public to be heard on the preliminary selection.

Sec. 11. (a) After the procedures required in this chapter have been completed, the authority shall make a determination as to whether the offeror that submitted the selected offer should be designated as the operator for the related toll road project and shall submit the authority's determination to the governor and the budget committee.

(b) After review of the authority's determination by the budget committee, the governor may accept or reject the determination of the authority. If the governor accepts the determination of the authority, the governor shall designate the offeror who submitted the selected offer as the operator for the related toll road project. The authority shall publish notice of the designation of the operator for the related toll road project one (1) time, in accordance with IC 5-3-1.

(c) After the designation of the operator for the related toll road project, the authority may execute the public-private agreement with that operator.

Sec. 12. Any action to contest the validity of a public-private agreement entered into under this chapter may not be brought after the fifteenth day following the publication of the notice of the designation of an operator under the public-private agreement as provided in section 11 of this chapter.

Sec. 13. The authority shall disclose the contents of all proposals, except the parts of the proposals that may be treated as confidential in accordance with IC 5-14-3, when either:

(1) the request for proposal process is terminated under section 8 of this chapter; or

(2) the public-private agreement has been executed and the closing for each financing transaction required to provide funding to carry out the agreement has been conducted.

Chapter 5. Terms and Conditions of Public-Private Agreements

Sec. 1. (a) Before developing or operating a toll road project,

a private entity that has been selected as the operator of a toll road project under this article shall enter into a public-private agreement with the authority setting forth the rights and duties of the operator under this article.

(b) A public-private agreement entered into under this article must be approved by the governor before its execution.

Sec. 2. A public-private agreement entered into under this article must provide for the following:

(1) The original term of the public-private agreement, which may not exceed seventy-five (75) years.

(2) Provisions for a:

(A) lease, franchise, or license of the toll road project and the real property owned by the authority upon which the toll road project is located or is to be located; or

(B) management agreement or other contract to operate the toll road project and the real property owned by the authority upon which the toll road project is located or is to be located;

for a predetermined period. The public-private agreement must provide for ownership of all improvements and real property by the authority in the name of the state.

(3) Monitoring of the operator's maintenance practices by the authority and the taking of actions by the authority that it considers appropriate to ensure that the toll road project is properly maintained.

(4) The basis upon which user fees that may be collected by the operator, as determined under this article, are established.

(5) Compliance with applicable state and federal laws and local ordinances.

(6) Grounds for termination of the public-private agreement by the authority or the operator.

(7) The date of termination of the operator's authority and duties under this article.

(8) Procedures for amendment of the agreement.

Sec. 3. In addition to the requirements of section 2 of this chapter, a public-private agreement may include additional provisions concerning the following:

(1) Review and approval by the authority of the operator's plans for the development and operation of the toll road project.

(2) Inspection by the authority of construction of or improvements to the toll road project.

(3) Maintenance by the operator of a policy or policies of public liability insurance (copies of which shall be filed with the authority, accompanied by proofs of coverage) or self-insurance, each in a form and amount satisfactory to the authority to insure coverage of tort liability to the public and employees and to enable the continued operation of the toll road project.

(4) Filing by the operator, on a periodic basis, of appropriate financial statements in a form acceptable to the authority.

(5) Filing by the operator, on a periodic basis, of appropriate traffic reports in a form acceptable to the authority.

(6) Payments to the operator. These payments may consist of one (1) or more of the following:

(A) The retention by the operator of the revenues collected by the operator in the operation and management of the toll road project.

(B) Payments made to the operator by the authority.

(C) Other sources of payment or revenue to the operator, if any.

(7) Financing obligations of the operator and the authority, including entering into agreements for the benefit of the financing parties.

(8) Apportionment of expenses between the operator and the authority.

(9) The rights and duties of the operator, the authority, and other state and local governmental entities with respect to use of the toll road project, including the state police department and other law enforcement and public safety agencies.

(10) Arbitration or other dispute resolution mechanisms or remedies for the settlement of claims and other disputes arising under the agreement.

(11) Payment of money to either party upon default or delay, or upon termination of the public-private agreement, with the payments to be used:

(A) in the form of liquidated damages to compensate the operator for demonstrated unamortized costs, lost profits, or other amounts as provided in the agreement;

(B) to retire or refinance indebtedness related to the toll road project or the public-private agreement; or

(C) for any other purpose mutually agreeable to the operator and the authority.

(12) Indemnification of the operator by the authority under conditions specified in the agreement.

(13) Assignment, subcontracting, or other delegation of responsibilities of the operator or the authority under the agreement to third parties, including other private entities, the department, and other state agencies.

(14) Sale or lease to the operator of personal property related to the toll road project.

(15) Other lawful terms and conditions to which the operator and the authority mutually agree.

Sec. 4. (a) The operator may finance its obligations with respect to the toll road project and the public-private agreement in the amounts and upon the terms and conditions determined by the operator.

(b) The operator may:

(1) issue debt, equity, or other securities or obligations;

(2) enter into sale and leaseback transactions; and

(3) secure any financing with a pledge of, security interest in, or lien on any user fees charged and collected for the use of the toll road project and any property interest of the operator in the toll road project.

However, any bonds, debt, other securities, or other financing issued for the purposes of this article shall not be considered to constitute a debt of the state or any political subdivision of the state or a pledge of the faith and credit of the state or any political subdivision.

(c) The operator may deposit the user fees charged and collected for the use of the toll road project in a separate account held by a trustee or escrow agent for the benefit of the secured parties of the operator.

Sec. 5. Notwithstanding any contrary provision of this article, the authority may enter into a public-private agreement with multiple private entities if the authority determines in writing that it is in the public interest to do so.

Sec. 6. The department or any other state agency may perform any duties and exercise any powers of the authority under this article or the public-private agreement that have been assigned, subcontracted, or delegated to it by the authority.

Chapter 6. Construction and Operating Standards for Toll Road Projects

Sec. 1. The plans and specifications for each toll road project constructed under this article must comply with:

(1) the authority's standards for other projects of a similar nature, except as otherwise provided in the public-private agreement; and

(2) any other applicable state or federal standards.

Sec. 2. Unless otherwise provided by federal law, the operator or any contractor or subcontractor of the operator engaged in the construction of a toll road project is not required to comply with IC 4-13.6 or IC 5-16 concerning state public works, IC 5-17 concerning purchases of materials and supplies, or other statutes concerning procedures for procurement of public works or personal property as a condition of being awarded and performing work on the project.

Sec. 3. The operator or any contractor or subcontractor of the operator engaged in the construction of a toll road project is subject to:

(1) the provisions of 25 IAC 5 concerning equal opportunities for minority business enterprises and women's business enterprises to participate in procurement and contracting processes; and

(2) the provisions that may be established by the authority in a public-private agreement with respect to awarding contracts to Indiana businesses (as defined in IC 5-22-15-20.5).

Sec. 4. Each toll road project constructed or operated under this article is considered to be part of the state highway system designated under IC 8-23-4-2 for purposes of identification, maintenance standards, and enforcement of traffic laws.

Sec. 5. An operator may enter into agreements for maintenance or other services under this article with the authority, the department, or other state agencies. The authority may:

(1) with the assistance of all applicable state agencies, establish a unified permitting and licensing process for the processing and issuance of all necessary permits and licenses for toll road projects under this article, including, but not limited to, all environmental permits and business and tax licenses; and

(2) provide other services for which the authority is reimbursed, including, but not limited to, preliminary planning, environmental certification (including the procurement of all necessary environmental permits), and preliminary design of toll road projects under this article.

Sec. 6. The authority shall seek the cooperation of federal and local agencies to expedite all necessary federal and local permits, licenses, and approvals necessary for toll road projects under this article.

Chapter 7. User Fees

Sec. 1. (a) Notwithstanding IC 8-9.5-8 and IC 8-15-2-14(j), the authority may fix and revise the amounts of user fees that an operator may charge and collect for the use of any part of a toll road project in accordance with the public-private agreement.

(b) In fixing the amounts referred to in subsection (a), the authority may:

(1) establish maximum amounts for the user fees; and

(2) provide for increases or decreases of the user fees or the maximum amounts established based upon the indices, methodologies, or other factors that the authority considers appropriate.

Sec. 2. A schedule of the current user fees shall be made available by the operator to any member of the public on request.

Sec. 3. User fees established by the authority under this article are not subject to supervision or regulation by any other commission, board, bureau, or agency of the state, or by any political subdivision.

Sec. 4. User fees established by the authority under section 1 of this chapter for the use of a toll road project must be nondiscriminatory and may:

(1) include different user fees based on categories such as vehicle class, vehicle size, vehicle axles, vehicle weight, volume, location, or traffic congestion or such other means or classification as the authority determines to be appropriate;

(2) vary by time of day or year; or

(3) be based on one (1) or more factors considered relevant by the authority, which may include any combination of:

(A) the costs of:

(i) operation;

(ii) maintenance; and

(iii) repair and rehabilitation;

(B) debt service payments on bonds or other obligations;

(C) adequacy of working capital;

(D) depreciation;

(E) payment of user fees, any state, federal, or local taxes, or payments in lieu of taxes; and

(F) the sufficiency of income to:

(i) maintain the toll road project in a sound physical and financial condition to render adequate and efficient service; and

(ii) induce an operator to enter into a public-private agreement.

Sec. 5. A public-private agreement may:

(1) grant an operator a license or franchise to charge and collect tolls for the use of the toll road project;

(2) authorize the operator to adjust the user fees charged and collected for the use of the toll road project, so long as the amounts charged and collected by the operator do not exceed the maximum amounts established by the authority under section 1 of this chapter;

(3) provide that any adjustment by the operator permitted under subdivision (2) may be based on such indices, methodologies, or other factors as described in the public-private agreement or as approved by the authority;

(4) authorize the operator to charge and collect user fees through manual and nonmanual methods, including, but not limited to, automatic vehicle identification systems, electronic toll collection systems, and, to the extent permitted by law, including rules adopted by the authority under IC 8-15-2-17.2(a)(10), global positioning systems and photo or video based toll collection or toll collection enforcement systems; and

(5) authorize the collection of user fees charges by a third party.

Sec. 6. (a) As used in this section, "Class 2 vehicle" means any vehicle with two (2) axles, including motorcycles.

(b) If the authority enters into a public-private agreement concerning the operation of the Indiana Toll Road, the authority shall enter into a written agreement with the operator concerning the implementation of electronic or nonmanual means of collecting user fees imposed on Class 2 vehicles.

Sec. 7. (a) After expiration of a public-private agreement, the authority may:

(1) continue to charge user fees for the use of the toll road project; or

(2) delegate to a third party the authority to continue to collect the user fees.

(b) Revenues collected under this section must first be used for operations and maintenance of the toll road project. Any revenues determined by the authority to be excess must be paid to the authority for deposit in the toll road fund established by IC 8-15.5-11.

Sec. 8. Any action to contest the validity of user fees fixed under this chapter may not be brought after the fifteenth day following the effective date of a rule fixing the user fees adopted under IC 4-22-2-37.1(a)(30).

Chapter 8. Taxation of Operators

Sec. 1. A toll road project and tangible personal property used exclusively in connection with a toll road project that are:

(1) owned by the authority and leased, franchised, licensed, or otherwise conveyed to an operator; or

(2) acquired, constructed, or otherwise provided by an operator in connection with the toll road project;

under the terms of a public-private agreement are considered to be public property devoted to an essential public and governmental function and purpose and the property, and an operator's leasehold estate, franchise, license, and other interests in the property, are exempt from all ad valorem property taxes and special assessments levied against property by the state or any political subdivision of the state.

Sec. 2. Income received by an operator under the terms of a public-private agreement is subject to taxation in the same manner as income received by other private entities.

Sec. 3. An operator or any other person purchasing tangible personal property for incorporation into or improvement of a structure or facility constituting or becoming part of the land included in the toll road project is not exempt from the application of the gross retail or use tax under IC 6-2.5 with respect to such a purchase.

Chapter 9. Records of Operators

Sec. 1. Records that are provided by an operator to the authority that relate to compliance by an operator with the terms of a public-private agreement are subject to inspection and copying in accordance with IC 5-14-3.

Chapter 10. Additional Powers of the Authority Concerning Toll Road Projects

Sec. 1. The authority may exercise any powers provided under this article in participation or cooperation with the department or any other governmental entity and enter into any contracts to

facilitate that participation or cooperation without compliance with any other statute.

Sec. 2. (a) The authority may make and enter into all contracts and agreements necessary or incidental to the performance of the authority's duties and the execution of the authority's powers under this article. These contracts or agreements are not subject to any approvals other than the approval of the authority and may be for any term of years and contain any terms that are considered reasonable by the authority.

(b) The department and any other state agency may make and enter into all contracts and agreements necessary or incidental to the performance of the duties and the execution of the powers granted to the department or the state agency in accordance with this article or the public-private agreement. These contracts or agreements are not subject to any approvals other than the approval of the department or state agency and may be for any term of years and contain any terms that are considered reasonable by the department or the state agency.

Sec. 3. (a) The authority may pay any amounts owed by the authority under a public-private agreement entered into under this article from any funds available to the authority under this article or any other statute.

(b) Subject to review by the budget committee established by IC 4-12-1-3 and approval by the budget director appointed under IC 4-12-1-3, a public-private agreement entered into under this article may:

(1) establish a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to pay any amounts owed by the authority under a public-private agreement; or

(2) otherwise create a moral obligation of the state to pay any amounts owed by the authority under the public-private agreement.

(c) The authority may issue bonds under IC 4-4-11 or IC 8-15-2 to provide funds for any amounts identified under this section without complying with IC 8-9.5-8-10.

Sec. 4. For purposes of this article, the authority may authorize an operator under a public-private agreement to perform any of its duties under IC 8-15-2-1, IC 8-15-2-6, IC 8-15-2-18, and IC 8-15-2-24.

Sec. 5. The authority may exercise any of its powers under IC 8-15-2 or any other provision of the Indiana Code as necessary or desirable for the performance of the authority's duties and the execution of the authority's powers under this article.

Sec. 6. The authority may not take any action under this chapter that would impair the public-private agreement entered into under this article.

Sec. 7. (a) The authority shall enter into an agreement between and among the operator, the authority, and the state police department concerning the provision of law enforcement assistance with respect to a toll road project that is the subject of a public-private agreement under this article.

(b) The authority shall enter into arrangements with the state police department related to costs incurred in providing law enforcement assistance under this article.

(c) All law enforcement officers of the state and any political subdivision have the same powers and jurisdiction within the limits of a toll road project as they have in their respective areas of jurisdiction, including the roads and highways of the state. These law enforcement officers shall have access to a toll road project that is the subject of a public-private agreement to exercise their powers and jurisdiction.

Chapter 11. Toll Road Fund

Sec. 1. As used in this chapter, "account" refers to an account established within the fund.

Sec. 2. As used in this chapter, "fund" refers to the toll road fund established by section 3 of this chapter.

Sec. 3. (a) The toll road fund is established to provide funds to:

(1) pay or defease certain bonds in the manner provided by this chapter;

(2) pay amounts owed by the authority in connection with the execution and performance of a public-private agreement under this article, including operating expenses of the authority; and

(3) make distributions to the next generation trust fund and the major moves construction fund.

(b) The authority shall hold, administer, and manage the fund.

(c) Expenses of administering the fund shall be paid from money in the fund.

(d) The fund consists of the following:

(1) Money received from an operator under a public-private agreement.

(2) Appropriations, if any, made by the general assembly.

(3) Grants and gifts intended for deposit in the fund.

(4) Interest, premiums, gains, or other earnings on the fund.

(5) Amounts transferred to the fund under subsection (i).

(6) Amounts transferred to the fund under IC8-14-14-6(a)(5)

(e) The authority shall establish the following separate accounts within the fund:

(1) The bond retirement account.

(2) The administration account.

(3) The eligible project account.

(f) Money in the fund shall be deposited, paid, and secured in the manner provided by IC 4-4-11-32. Notwithstanding IC 5-13, the authority shall invest the money in the fund that is not needed to meet the obligations of the fund in the manner provided by an investment policy established by resolution of the authority.

(g) The fund is not part of the state treasury and is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

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

(i) As soon as practicable after a public-private agreement concerning the Indiana Toll Road has been executed and the closing for each financing transaction required to provide funding to carry out the agreement has been conducted, the authority shall determine the total balance remaining in all toll road funds and accounts established under IC 8-15-2. Subject to any applicable trust indentures securing toll road bonds, the authority may retain from those funds and accounts the amounts necessary to pay outstanding obligations with respect to the operation of the Indiana Toll Road incurred before the effective date of the public-private agreement, and shall transfer all remaining balances in the toll road funds and accounts to the fund.

Sec. 4. (a) Before any allocations are made from the fund under this chapter, the authority shall determine:

(1) the extent to which outstanding bonds issued by the authority under IC 8-14.5-6 or IC 8-15-2 should be repaid, defeased, or otherwise retired;

(2) the total amount necessary to repay, defease, or otherwise retire the bonds selected by the authority for repayment, defeasance, or retirement; and

(3) the total amount necessary to pay the amounts owed by the authority related to the execution and performance of a public-private agreement under this article, including establishing reserves, plus the amount necessary to establish an escrow account to implement a written agreement entered into under IC 8-15.5-7-6 to fund reductions in, or refunds of, user fees imposed on Class 2 vehicles.

The authority shall make a separate determination of the amount described in subdivision (3) for each public-private agreement. The amount described in subdivision (3) is payable solely from money received by the authority under the public-private agreement for which the amounts owed were incurred, and are not payable from lease payments received under IC 8-9.5 or IC 8-14.5.

(b) Before making any allocations from the fund under subsection (c) or (d), the authority shall allocate the amount determined under subsection (a)(2) to the bond retirement account. Money in this account may be used only for the purpose described in section 3(a)(1) of this chapter.

(c) After making the allocation required by subsection (b) and before making the allocations required by subsection (d), the

authority shall allocate the amount determined under subsection (a)(3) to the administration account. Money in this account may be used only for the purpose described in section 3(a)(2) of this chapter.

(d) After making the allocations required by subsections (b) and (c), the remaining money received during each state fiscal year under a public-private agreement under this article shall be allocated to the eligible project account. Money in this account may be used only for the purposes described in section 3(a)(3) of this chapter. Within thirty (30) days after a public-private agreement concerning the Indiana Toll Road has been executed and the closing for each financing transaction required to provide funding to carry out the agreement has been conducted, the authority shall transfer:

(1) five hundred million dollars ($500,000,000) of the money in the eligible project account to the next generation trust fund established under IC 8-14-15; and

(2) the remainder of the money in the eligible project account to the major moves construction fund.

In addition, any amounts transferred to the fund under section 3(i) of this chapter after the date described in this subsection shall be transferred to the major moves construction fund.

Sec. 5. The money allocated to the eligible project account must be used to make distributions to the next generation trust fund and the major moves construction fund, as provided by section 4 of this chapter.

Chapter 12. Prohibited Local Action

Sec. 1. A political subdivision (as defined in IC 36-1-2-13) may not take any action that would have the effect of impairing a public-private agreement under this article.

Chapter 13. Prohibited Political Contributions

Sec. 1. The definitions in IC 3-5-2 apply to this chapter to the extent they do not conflict with the definitions in this article.

Sec. 2. As used in this chapter, "candidate" refers to any of the following:

(1) A candidate for a state office.

(2) A candidate for a legislative office.

(3) A candidate for a local office.

Sec. 3. As used in this chapter, "committee" refers to any of the following:

(1) A candidate's committee.

(2) A regular party committee.

(3) A committee organized by a legislative caucus of the house of representatives of the general assembly.

(4) A committee organized by a legislative caucus of the senate of the general assembly.

Sec. 4. As used in this chapter, "officer" refers only to either of the following:

(1) An individual listed as an officer of a corporation in the corporation's most recent annual report.

(2) An individual who is a successor to an individual described in subdivision (1).

Sec. 5. For purposes of this chapter, a person is considered to have an interest in an operator if the person satisfies any of the following:

(1) The person holds at least a one percent (1%) interest in an operator.

(2) The person is an officer of an operator.

(3) The person is an officer of a person that holds at least a one percent (1%) interest in an operator.

(4) The person is a political action committee of an operator.

Sec. 6. An operator is considered to have made a contribution if a contribution is made by a person who has an interest in the operator.

Sec. 7. An operator or a person who has an interest in an operator may not make a contribution to a candidate or a committee during the following periods:

(1) The term during which the operator is a party to a public-private agreement entered into under this article.

(2) The three (3) years following the final expiration or termination of the public-private agreement described in subdivision (1).

Sec. 8. A person who knowingly or intentionally violates this chapter commits a Class D felony.

SECTION 40. IC 8-15.7 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

ARTICLE 15.7. PUBLIC-PRIVATE PARTNERSHIPS

Chapter 1. General Provisions

Sec. 1. The general assembly finds the following:

(1) There is a public need for timely development and operation of transportation facilities in Indiana that address the needs identified by the department, through the department's transportation plan and otherwise, by accelerating project delivery, improving safety, reducing congestion, increasing mobility, improving connectivity, increasing capacity, enhancing economic efficiency, promoting economic development, or any combination of those methods.

(2) This public need may not be wholly satisfied by existing methods of procurement and project delivery in which transportation facilities are developed, financed, or operated.

(3) Authorizing private entities to do all or part of the development, planning, design, construction, maintenance, repair, rehabilitation, expansion, financing, and operation of one (1) or more transportation facilities may result in the availability of the transportation facilities to the public in a more timely, more efficient, or less costly fashion, thereby serving the public safety and welfare.

Sec. 2. An action, other than an approval by the authority or the department under IC 8-15.7-4, serves the public purpose of this article if the action facilitates the timely development, planning, design, construction, maintenance, repair, rehabilitation, expansion, financing, or operation of a qualifying project.

Sec. 3. It is the intent of this article to:

(1) encourage investment in Indiana by private entities that facilitates the development, planning, design, construction, maintenance, repair, rehabilitation, expansion, financing, and operation of transportation facilities; and

(2) grant public and private entities the greatest possible flexibility in contracting with each other for the provision of the public services that are the subject of this article.

Sec. 4. The powers conferred by this article shall be liberally construed in order to accomplish their purposes and are in addition and supplemental to the powers conferred by any other law. If any other law or rule is inconsistent with this article, this article is controlling as to any public-private agreement entered into under this article.

Sec. 5. (a) This article contains full and complete authority for agreements and leases with private entities to carry out the activities described in this article. Except as provided in this article, no procedure, proceeding, publication, notice, consent, approval, order, or act by the authority, the department, or any other state or local agency or official is required to enter into an agreement or lease, and no law to the contrary affects, limits, or diminishes the authority for agreements and leases with private entities, except as provided by this article.

(b) Notwithstanding any other law, the department, the authority, or an operator may not carry out any of the following activities under this article unless the general assembly enacts a statute authorizing that activity:

(1) Issuing a request for proposals for, or entering into, a public-private agreement concerning a project other than Interstate Highway 69 between Interstate Highway 465 and Interstate Highway 64.

(2) Carrying out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred (93,500).

(3) Imposing user fees on motor vehicles for use of the part of an interstate highway that connects a consolidated city and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

Sec. 6. To the extent that this article permits or requires the authority, the department, or a private entity to carry out any

law other than this article under a public-private agreement, the action shall be carried out in conformity with this article.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Affected jurisdiction" means the following:

(1) Any county, city, or town in which all or a part of a qualifying project is located.

(2) Any other public entity directly affected by the qualifying project.

Sec. 3. "Authority" or "Indiana finance authority" refers to the Indiana finance authority established by IC 4-4-11-4.

Sec. 4. "Department" refers to the Indiana department of transportation.

Sec. 5. "Develop" or "development" means to do one (1) or more of the following:

(1) Plan.
(2) Design.
(3) Develop.
(4) Lease.
(5) Acquire.
(6) Install.
(7) Construct.
(8) Reconstruct.
(9) Rehabilitate.
(10) Extend.
(11) Expand.

Sec. 6. "Highway, street, or road" has the meaning set forth in IC 8-23-1-23.

Sec. 7. "Law enforcement officer" has the meaning set forth in IC 35-41-1-17.

Sec. 8. "Maintenance" includes ordinary maintenance, repair, rehabilitation, capital maintenance, maintenance replacement, and any other categories of maintenance that may be designated by the department.

Sec. 9. "Offeror" means a private entity that has submitted a qualification submittal or a proposal for a public-private agreement under this article.

Sec. 10. "Operate" or "operation" means to do one (1) or more of the following:

(1) Maintain.
(2) Improve.
(3) Equip.
(4) Modify.
(5) Otherwise operate.

Sec. 11. "Operator" means a private entity that has entered into a public-private agreement with the department to provide services to or on behalf of the department.

Sec. 12. "Political subdivision" has the meaning set forth in IC 36-1-2-13.

Sec. 13. "Private entity" means any combination of one (1) or more individuals, corporations, general partnerships, limited liability companies, limited partnerships, joint ventures, business trusts, nonprofit entities, or other business entities that are parties to a proposal for a qualifying project or a public-private agreement related to a qualifying project. A public agency may provide services to an operator as a subcontractor or subconsultant without affecting the private status of the private entity and the entity's or operator's ability to enter into a public-private agreement.

Sec. 14. Subject to IC 8-15.7-1-5, "project" means all or part of the following:

(1) A limited access facility (as defined in IC 8-23-1-28).
(2) A tollway.
(3) Roads and bridges.
(4) All or part of a bridge, tunnel, overpass, underpass, interchange, structure, ramp, access road, service road, entrance plaza, approach, tollhouse, utility corridor, toll gantry, rest stop, service area, or administration, storage, or other building or facility, including temporary facilities and buildings or facilities and structures that will not be tolled, that the department determines is appurtenant, necessary, or desirable for the development, financing, or operation of the facilities described in subdivisions (1), (2), and (3).
(5) An improvement, betterment, enlargement, extension, or reconstruction of all or part of any of the facilities described in this section, including a nontolled part, that is separately designated by name or number.

Sec. 15. "Public-private agreement" means the public-private agreement between the operator and the department that relates to any combination of the development, financing, or operation of a qualifying project and is entered into under this article.

Sec. 16. "Qualifying project" means one (1) or more projects developed, financed, or operated by an operator under this article.

Sec. 17. "Request for proposals" means all materials and documents prepared by or on behalf of the department to solicit proposals from offerors to enter into a public-private agreement.

Sec. 18. "Request for qualifications" means all materials and documents prepared by or on behalf of the department to solicit qualification submittals from offerors to enter into a public-private agreement.

Sec. 19. "Revenues" means all revenues, including any combination of:

(1) income;
(2) earnings and interest;
(3) user fees;
(4) lease payments;
(5) allocations;
(6) federal, state, and local appropriations, grants, loans, lines of credit, and credit guarantees;
(7) bond proceeds;
(8) equity investments; or
(9) other receipts;

arising out of or in connection with a qualifying project, including the development, financing, and operation of a qualifying project. The term includes money received as grants, loans, lines of credit, credit guarantees, or otherwise in aid of a qualifying project from the federal government, the state, a political subdivision, or any agency or instrumentality of the federal government, the state, or a political subdivision.

Sec. 20. "Tollway" has the meaning set forth in IC 8-15-3-7.

Sec. 21. "Transportation plan" has the meaning set forth in IC 8-23-1-41.

Sec. 22. "User fees" means the rates, tolls, or fees imposed for use of, or incidental to, all or part of a qualifying project under a public-private agreement.

Chapter 3. Formation of an Agreement

Sec. 1. Subject to IC 8-15.7-1-5, the department may exercise the powers granted by this article to carry out:

(1) the development;
(2) the financing;
(3) the operation; or
(4) any combination of the development, financing, and operation;

of all or part of one (1) or more projects through public-private agreements with one (1) or more private entities. The parties to a public-private agreement that relates to a tollway or a project that otherwise charges user fees may exercise any of the powers granted to the party under IC 8-15-3. The department may use the revenues arising out of one (1) project or public-private agreement for all or part of the development, financing, and operation of any part of one (1) or more other projects through public-private agreements with one (1) or more private entities or as otherwise considered appropriate by the department.

Sec. 2. An operator has:

(1) all powers allowed by law generally to a private entity having the same form of organization as the operator; and
(2) the power to develop, finance, and operate the qualifying project and impose user fees in connection with the use of the qualifying project.

Tolls or user fees may not be imposed by the operator except as set forth in a public-private agreement. User fees and the setting of user fee rates are not subject to supervision or regulation by any commission, board, bureau, or agency of the state or any municipality, other than the department to the extent set forth in the public-private agreement.

Sec. 3. The operator may own, lease, or acquire any property

interest or other right to develop, finance, or operate the qualifying project.

Sec. 4. In operating the qualifying project, the operator may do the following:

(1) Make user classifications as permitted in the public-private agreement.

(2) As permitted in the public-private agreement or otherwise with the consent of the department, make and enforce reasonable rules to the same extent that the department may make and enforce rules with respect to a similar project.

Sec. 5. The department shall establish a program to facilitate participation in qualifying projects by:

(1) small businesses that qualify for a small business set-aside under IC 4-13.6-2-11;

(2) businesses certified under IC 4-13-16.5 as a minority business enterprise;

(3) businesses certified under IC 4-13-16.5 as a women's business enterprise;

(4) businesses treated as disadvantaged business enterprises under federal or state law; and

(5) businesses defined under IC 5-22-15-20.5 as Indiana businesses, to the extent permitted by applicable federal and state law and regulations.

Chapter 4. Procurement Process

Sec. 1. (a) The department may request proposals from private entities for all or part of the development, financing, and operation of one (1) or more projects.

(b) If all or part of the project will consist of a tollway, the department shall take the following steps before the commencement of the procurement process under this chapter:

(1) The department shall cause to be prepared a preliminary feasibility study on that part of the project consisting of a tollway by a firm or firms internationally recognized in the preparation of studies or reports on the financial feasibility of proposed toll road projects. The preliminary feasibility study must be based upon a public-private financial and project delivery structure.

(2) After the completion of the preliminary feasibility study, the department shall schedule a public hearing on the proposed project and the preliminary feasibility study and publish notice of the hearing one (1) time in accordance with IC 5-3-1 at least seven (7) days before the hearing. The notice must include the following:

(A) The date, time, and place of the hearing.

(B) The subject matter of the hearing.

(C) A description of the proposed project, its location, the part of the project consisting of a tollway, and, consistent with the assessments reached in the preliminary feasibility study, the estimated total cost of the acquisition, construction, installation, equipping, and improving of the proposed project, as well as the part of the project consisting of a tollway.

(D) The address and telephone number of the department.

(3) At the hearing, the department shall allow the public to be heard on the proposed project and the preliminary feasibility study.

(4) After the public hearing described in subdivision (2), the department shall submit the preliminary feasibility study to the budget committee for its review before the commencement of the procurement process under this chapter.

Sec. 2. (a) This section establishes the competitive proposal procedure that the department shall use to enter into a public-private agreement with an operator under this article.

(b) The department may pursue a competitive proposal procedure using a request for qualifications and a request for proposals process or proceed directly to a request for proposals.

(c) If the department elects to use a request for qualifications phase, it must provide a public notice of the request for qualifications, for the period considered appropriate by the department, before the date set for receipt of submittals in response to the solicitation. The department shall provide the notice by posting in a designated public area and publication in a newspaper of general circulation, in the manner provided by IC 5-3-1. In addition, submittals in response to the solicitation may be solicited directly from potential offerors.

(d) The department shall evaluate qualification submittals based on the requirements and evaluation criteria set forth in the request for qualifications.

(e) If the department has undertaken a request for qualifications phase resulting in one (1) or more prequalified or shortlisted offerors, the request for proposals shall be limited to those offerors that have been prequalified or shortlisted.

(f) If the department has not issued a request for qualifications and intends to use only a one (1) phase request for proposals procurement, the department must provide a public notice of the request for proposals for the period considered appropriate by the department, before the date set for receipt of proposals. The department shall provide the notice by posting in a designated public area and publication in a newspaper of general circulation, in the manner provided by IC 5-3-1. In addition, proposals may be solicited directly from potential offerors.

(g) The department shall submit a draft of the request for proposals to the budget committee for its review before the issuance by the department of the request for proposals to potential offerors. The request for proposals must:

(1) indicate in general terms the scope of work, goods, and services sought to be procured;

(2) contain or incorporate by reference the specifications and contractual terms and conditions applicable to the procurement and the qualifying project;

(3) specify the factors, criteria, and other information that will be used in evaluating the proposals;

(4) specify any requirements or goals for use of:

(A) minority business enterprises and women's business enterprises certified under IC 4-13-16.5;

(B) disadvantaged business enterprises under federal or state law;

(C) businesses defined under IC 5-22-15-20.5 as Indiana businesses, to the extent permitted by applicable federal and state law and regulations; and

(D) businesses that qualify for a small business set-aside under IC 4-13.6-2-11;

(5) if all or part of the project will consist of a tollway, require any offeror to submit a proposal based upon that part of the project that will consist of a tollway, as set forth in the request for proposals, and permit any offeror to submit one (1) or more alternative proposals based upon the assumption that a different part or none of the project will consist of a tollway;

(6) contain or incorporate by reference the other applicable contractual terms and conditions; and

(7) contain or incorporate by reference any other provisions, materials, or documents that the department considers appropriate.

(h) The department shall determine the evaluation criteria that are appropriate for each project and shall set those criteria forth in the request for proposals. The department may use a selection process that results in selection of the proposal offering the best value to the public, a selection process that results in selection of the proposal offering the lowest price or cost or the highest payment to, or revenue sharing with, the department, or any other selection process that the department determines is in the best interests of the state and the public.

(i) The department shall evaluate proposals based on the requirements and evaluation criteria set forth in the request for proposals.

(j) The department may select one (1) or more offerors for negotiations based on the evaluation criteria set forth in the request for proposals. If the department believes that negotiations with the selected offeror or offerors are not likely to result in a public-private agreement, or, in the case of a best value selection process, no longer reflect the best value to the state and the public, the department may commence negotiations with other responsive offerors, if any, and may suspend, terminate, or continue negotiations with the original offeror or offerors. If

negotiations are unsuccessful, the department shall terminate the procurement, may not award the public-private agreement, and may commence a new procurement for a public-private agreement. If the department determines that negotiations with an offeror have been successfully completed, the department shall, subject to the other requirements of this article, award the public-private agreement to the offeror.

(k) Before awarding a public-private agreement to an operator, the department shall schedule a public hearing on the proposed public-private agreement and publish notice of the hearing one (1) time in accordance with IC 5-3-1 at least seven (7) days before the hearing. The notice must include the following:

(1) The date, time, and place of the hearing.

(2) The subject matter of the hearing.

(3) A description of the agreement to be awarded.

(4) The recommendation that has been made to award the agreement to an identified offeror or offerors.

(5) The address and telephone number of the department.

(l) At the hearing, the department shall allow the public to be heard on the proposed public-private agreement.

(m) When the terms and conditions of multiple awards are specified in the request for proposals, awards may be made to more than one (1) offeror.

Sec. 3. (a) After the procedures required in this chapter have been completed, the department shall make a determination as to whether the successful offeror should be designated as the operator for the project and shall submit its decision to the governor and the budget committee.

(b) After review of the department's determination by the budget committee, the governor may accept or reject the determination of the department. If the governor accepts the determination of the department, the governor shall designate the successful offeror as the operator for the project. The department shall publish notice of the designation of the operator one (1) time, in accordance with IC 5-3-1.

(c) After the designation of the successful offeror as the operator for the project, the department may execute the public-private agreement.

(d) An action to contest the validity of a public-private agreement entered into under this chapter may not be brought after the fifteenth day following the publication of the notice of the designation of the operator under the public-private agreement under subsection (b).

Sec. 4. The department may pay a stipulated amount to an unsuccessful offeror that submits a responsive proposal in response to a request for proposals under this chapter, in exchange for the work product contained in that proposal. The use by the department of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the department and does not confer liability on the recipient of the stipulated amount under this section. After payment of the stipulated amount:

(1) the department and the unsuccessful offeror jointly own the rights to, and may make use of any work product contained in, the proposal, including the technologies, techniques, methods, processes, ideas, and information contained in the proposal, project design, and project financial plan; and

(2) the use by the unsuccessful offeror of any part of the work product contained in the proposal is at the sole risk of the unsuccessful offeror and does not confer liability on the department.

Sec. 5. In addition to any other rights under this article, in connection with any procurement under this chapter, the department may:

(1) withdraw a request for qualifications or a request for proposals at any time and, in its discretion, publish a new request for qualifications or request for proposals;

(2) decline to award a public-private agreement for any reason;

(3) request clarifications to any qualification submittal or request for proposals or seek one (1) or more revised proposals or one (1) or more best and final offers;

(4) modify the terms, provisions, and conditions of a request for qualification, request for proposals, technical specifications, or form of public-private agreement during the pendency of a procurement; and

(5) interview offerors.

Sec. 6. (a) The department may not disclose the contents of proposals during discussions or negotiations with potential offerors.

(b) The department may, in its discretion in accordance with IC 5-14-3, treat as confidential all records relating to discussions or negotiations between the department and potential offerors if those records are created while discussions or negotiations are in progress.

(c) Notwithstanding subsections (a) and (b), and with the exception of portions that are confidential under IC 5-14-3, the terms of the selected offer negotiated under this article shall be available for inspection and copying under IC 5-14-3 after negotiations with the offerors have been completed.

(d) When disclosing the terms of the selected offer under subsection (c), the department shall certify that the information being disclosed accurately and completely represents the terms of the selected offer.

(e) The department shall disclose the contents of all proposals, except the parts of the proposals that may be treated as confidential in accordance with IC 5-14-3, when either:

(1) the request for proposal process is terminated under section 5 of this chapter; or

(2) the public-private agreement has been executed and the closing for each financing transaction required to provide funding to carry out the agreement has been conducted.

Chapter 5. Public-Private Agreements

Sec. 1. (a) Before beginning:

(1) the development;

(2) the financing;

(3) the operation; or

(4) any combination of the development, financing, or operation;

of a qualifying project, the operator must enter into a public-private agreement with the department. Subject to the other provisions of this article, the department and a private entity may enter into a public-private agreement with respect to a project. Subject to the requirements of this article, a public-private agreement may provide that the private entity, acting on behalf of the department or the authority, is partially or entirely responsible for any combination of developing, financing, or operating the qualifying project.

(b) The public-private agreement may, as determined appropriate by the department for the particular qualifying project, provide for all or part of the following:

(1) Delivery of performance and payment bonds or other performance security determined suitable by the department, including letters of credit, United States bonds and notes, parent guaranties, and cash collateral, in connection with the development, financing, or operation of the qualifying project, in the forms and amounts set forth in the public-private agreement or otherwise determined as satisfactory by the department to protect the department and payment bond beneficiaries who have a direct contractual relationship with the operator or a subcontractor of the operator to supply labor or material. A payment or performance bond or alternative form of performance security required under a public-private agreement shall not be required for the part of a public-private agreement that includes only design, planning, or financing services, the performance of preliminary studies, or the acquisition of real property.

(2) Review of plans for any development or operation, or both, of the qualifying project by the department.

(3) Inspection of any construction of or improvements to the qualifying project by the department or another entity designated by the department or under the public-private agreement to ensure that the construction or improvements conform to the standards set forth in the public-private agreement or are otherwise acceptable to the department.

(4) Maintenance of:

(A) one (1) or more policies of public liability insurance (copies of which shall be filed with the department accompanied by proofs of coverage); or

(B) self-insurance;

each in the form and amount required by the public-private agreement or otherwise satisfactory to the department as reasonably sufficient to insure coverage of tort liability to the public and employees and to enable the continued operation of the qualifying project.

(5) If operations are included within the operator's obligations under the public-private agreement, monitoring of the maintenance practices of the operator by the department or another entity designated by the department or under the public-private agreement, and the taking of the actions that the department finds appropriate to ensure that the qualifying project is properly maintained.

(6) Reimbursement to be paid to the department as set forth in the public-private agreement for services provided by the department.

(7) Filing of appropriate financial statements and reports as set forth in the public-private agreement or as otherwise in a form acceptable to the department on a periodic basis.

(8) Compensation or payments to the operator, attorneys, bankers, financial advisors, or other professionals. Compensation or payments may include one (1) or more of the following:

(A) A development fee, payable on a lump sum basis, progress payment basis, time and materials basis, or any other basis considered appropriate by the department.

(B) An operations fee, payable on a lump sum basis, time and material basis, periodic basis, or any other basis considered appropriate by the department.

(C) All or part of the revenues, if any, arising out of operation of the qualifying project.

(D) A maximum rate of return on investment or return on equity or a combination of the two (2).

(E) In kind services, materials, property, equipment, or other items.

(F) Compensation in the event of any termination.

(G) A cash payment to pay part of the project cost.

(H) Other compensation set forth in the public-private agreement or otherwise considered appropriate by the department.

(9) Compensation or payments to the department, if any. Compensation or payments may include one (1) or more of the following:

(A) A concession payment, lease payment, or other fee, which may be payable in a lump sum, on a periodic basis, or on any other basis considered appropriate by the department.

(B) Sharing of revenues, if any, from the operation of the qualifying project.

(C) Payment for any services, materials, equipment, personnel, or other items provided by the department to the operator under the public-private agreement or in connection with the qualifying project.

(D) Other compensation set forth in the public-private agreement or otherwise considered appropriate by the department.

(10) The date and terms of termination of the operator's authority and duties under this article, and circumstances under which the operator's authority and duties may be terminated before that date.

(11) Reversion of the qualifying project to the department at the termination or expiration of the public-private agreement.

(12) Rights and remedies of the department if the operator defaults or otherwise fails to comply with the terms of the public-private agreement.

(c) A public-private agreement may not provide that the state or the department is responsible for any debt incurred by an operator in connection with the delivery of a project.

Sec. 2. (a) The department may fix and revise the amounts of user fees that an operator may charge and collect for the use of any part of a qualifying project in accordance with the public-private agreement. In fixing these amounts, the department may:

(1) establish maximum amounts for the user fees; and

(2) provide for increases or decreases of the maximum amounts based upon the indices, methodologies, or other factors that the department considers appropriate.

(b) User fees established by the department for the use of a qualifying project must be nondiscriminatory and may:

(1) include different user fees based on categories such as vehicle class, vehicle size, vehicle axles, vehicle weight, volume, location, traffic congestion, or other means or classification that the department determines to be appropriate;

(2) vary by time of day or year; and

(3) be based on one (1) or more factors considered relevant by the department, which may include any combination of:

(A) lease payments;

(B) financing costs and charges;

(C) debt repayment, including principal and interest;

(D) costs of development;

(E) costs of operation;

(F) working capital;

(G) reserves;

(H) depreciation;

(I) compensation to the operator;

(J) compensation to the department; and

(K) other costs, expenses, and factors set forth in the public-private agreement or otherwise considered appropriate by the department.

(c) A public-private agreement may:

(1) authorize the operator to adjust the user fees for the use of the qualifying project, so long as the amounts charged and collected by the operator do not exceed the maximum amounts established by the department under this chapter;

(2) provide that any adjustment by the operator permitted under subdivision (1) may be based on indices, methodologies, or other factors described in the public-private agreement or approved by the department;

(3) authorize the operator to charge and collect user fees through manual and nonmanual methods, including, but not limited to, automatic vehicle identification systems, electronic toll collection systems, and, to the extent permitted by law, including rules adopted by the department, global positioning systems and photo or video based toll collection enforcement systems; and

(4) authorize the collection of user fees by a third party.

(d) A schedule of the current user fees shall be made available by the operator to any member of the public on request. User fees and the setting of user fee rates are not subject to supervision or regulation by any other commission, board, bureau, or agency of the state or any municipality, except to the extent set forth in the public-private agreement.

(e) Any action to contest the validity of user fees fixed under this chapter may not be brought after the fifteenth day following the effective date of a rule fixing the user fees.

Sec. 3. In the public-private agreement, the department may agree to make grants or loans for the development or operation, or both, of the qualifying project from amounts received from the federal government, any agency or instrumentality of the federal government, or any state or local agency.

Sec. 4. The public-private agreement must incorporate the duties of the operator under this article and may contain the other terms and conditions that the department determines serve the public purpose of this article. The public-private agreement may contain provisions under which the department or the authority agrees to provide notice of default and cure rights for the benefit of the operator and the persons or entities described in the public-private agreement that are providing financing for the qualifying project. The public-private agreement may contain any other lawful term or condition to which the operator and the department mutually agree, including provisions regarding change orders, dispute resolution, required upgrades to the qualifying project, tolling policies, changes and modifications to

the qualifying project, unavoidable delays, or provisions for a loan or grant of public funds for the development or operation, or both, of one (1) or more qualifying projects.

Sec. 5. To the extent that the department receives any payment or compensation under the public-private agreement other than repayment of a loan or grant or reimbursement for services provided by the department to the operator, the payment or compensation shall be distributed at the direction of the department to the:

(1) major moves construction fund established under IC 8-14-14;

(2) department for deposit in the state highway fund established by IC 8-23-9-54; or

(3) operator or the authority for debt reduction.

Sec. 6. (a) Upon the termination or expiration of the public-private agreement, including a termination for default, the department may take over the qualifying project and succeed to all of the right, title, and interest in the qualifying project. The department may agree to accept the qualifying project subject to any liens on revenues previously granted by the operator to any person providing financing for the qualifying project.

(b) If the department elects to take over a qualifying project, the department may do all or part of the following:

(1) Develop, finance, or operate the project.

(2) Impose, collect, retain, and use user fees, if any, for the project.

(c) The department may use any revenues collected under this section for any of the following purposes or any other authorized use under this article:

(1) Making payments to individuals or entities in connection with the financing of the qualifying project.

(2) Paying development costs of the project.

(3) Paying current operation costs of the project or facilities, including compensation to the department for the services of the department in operating the qualifying project.

(4) Paying the operator for any compensation or payment owing upon termination.

(d) The full faith and credit of the state or any political subdivision or the authority is not pledged to secure any financing of the operator by the election to take over the qualifying project. Assumption of development or operation, or both, of the qualifying project does not obligate the state or any political subdivision or the authority to pay any obligation of the operator.

Sec. 7. Any changes in the terms of the public-private agreement agreed to by the parties shall be added to the public-private agreement by written amendment.

Sec. 8. Notwithstanding any other provision of this article, the department may enter into a public-private agreement with multiple private entities if the department determines in writing that it is in the public interest to do so.

Sec. 9. The public-private agreement may provide for all or part of the development, financing, or operation of phases or segments of the qualifying project.

Sec. 10. The department may enter into one (1) or more memoranda of understanding with respect to the implementation and administration of a public-private agreement. The memoranda may provide that the department has responsibility for, and shall administer and oversee certain aspects of the implementation of, the public-private agreement under this article, including:

(1) undertaking any oversight and monitoring of the operator as provided under the public-private agreement;

(2) reviewing plans for development and operation, as applicable, as provided under the public-private agreement;

(3) granting or denying all consents and approvals as provided under the public-private agreement, except for consents and approvals relating to financial matters that the department is not permitted to grant or deny under applicable law, in which case the authority shall execute the consents and approvals prepared by the department;

(4) receiving all development, operations, and financial reports prepared by the operator or others, as provided under the public-private agreement;

(5) preparing, negotiating, and executing any change orders and amendments to the public-private agreement;

(6) issuing other written correspondence and communications on behalf of the authority as provided under the public-private agreement;

(7) preparing and issuing noncompliance letters and reports, warning notices, and default letters to the operator as provided under the public-private agreement; and

(8) exercising rights and remedies for a breach or default by the operator as provided under the public-private agreement, except for rights and remedies relating to financial matters that the department is not permitted to exercise under applicable law, in which case the authority shall exercise the rights and remedies.

Chapter 6. Development and Operations Standards for Projects

Sec. 1. The plans and specifications, if any, for each project developed under this article must comply with:

(1) the department's standards for other projects of a similar nature, except as otherwise provided in the public-private agreement; and

(2) any other applicable state or federal standards.

Sec. 2. Unless otherwise provided by federal law, the operator or any contractor or subcontractor of the operator engaged in the construction of a project is not required to comply with IC 4-13.6 or IC 5-16 concerning state public works, IC 5-17 concerning purchases of materials and supplies, or other statutes concerning procedures for procurement of public works or personal property as a condition of being awarded and performing work on the project.

Sec. 3. Each project constructed or operated under this article is considered to be part of the state highway system designated under IC 8-23-4-2 for purposes of identification, maintenance standards, and enforcement of traffic laws.

Sec. 4. An operator may enter into agreements for maintenance or other services under this article with the department and other local or state agencies. The department may:

(1) with the assistance of all applicable local and state agencies, establish a unified permitting and licensing process for the processing and issuance of all necessary permits and licenses for projects under this article, including, but not limited to, all environmental permits and business and tax licenses; and

(2) provide other services for which the department may be reimbursed, including, but not limited to, preliminary planning, environmental certification (including the procurement of all necessary environmental permits), right-of-way acquisition, utility relocations and adjustments, and preliminary design of projects under this article.

Sec. 5. The department shall seek the cooperation of federal and local agencies to expedite all necessary federal and local permits, licenses, and approvals necessary for projects under this article.

Chapter 7. Taxation of Operators

Sec. 1. A project under this article and tangible personal property used exclusively in connection with a project that are:

(1) owned by the authority or the department and leased, licensed, financed, or otherwise conveyed to an operator; or

(2) acquired, constructed, or otherwise provided by an operator on behalf of the authority or the department;

under the terms of a public-private agreement are considered to be public property devoted to an essential public and governmental function and purpose. The property, and an operator's leasehold estate or interests in the property, are exempt from all ad valorem property taxes and special assessments levied against property by the state or any political subdivision of the state.

Sec. 2. An operator or any other person purchasing tangible personal property for incorporation into or improvement of a structure or facility constituting or becoming part of the land included in a project is entitled to the exemption from gross retail

tax and use tax provided under IC 6-2.5-4-9(b) and IC 6-2.5-3-2(c), respectively, with respect to that tangible personal property.

Sec. 3. Income received by an operator under the terms of a public-private agreement is subject to taxation in the same manner as income received by other private entities.

Chapter 8. Financial Arrangements

Sec. 1. The authority or the department may do any combination of applying for, executing, or endorsing applications submitted by private entities to obtain federal, state, or local credit assistance for qualifying projects developed, financed, or operated under this article, including grants, loans, lines of credit, and guarantees.

Sec. 2. The authority or the department may take any action authorized by this article to obtain federal, state, or local assistance for a qualifying project that serves the public purpose of this article and may enter into any contracts required to receive the assistance.

Sec. 3. The authority or the department may agree to make grants or loans for any combination of the development, financing, or operation of a qualifying project from amounts received from the federal, state, or local government or any agency or instrumentality of the federal, state, or local government.

Sec. 4. The financing of a qualifying project may be in the amounts and upon the terms and conditions that are determined by the parties to the public-private agreement.

Sec. 5. For the purpose of financing a qualifying project, the operator and the authority or the department may do the following:

(1) Propose to use all or part of the revenues available to them.

(2) Enter into grant agreements.

(3) Access any designated transportation trust funds.

(4) Access any other funds available to the authority or the department and the operator.

(5) Accept grants from the authority, the port commission, any other state infrastructure bank, or any other agency or entity.

Sec. 6. (a) For the purpose of financing a qualifying project, the authority may enter into agreements, leases, or subleases with the department or an operator, or both, and do the following:

(1) Issue bonds, debt, or other obligations under IC 4-4-11, IC 8-15-2, or IC 8-15.7-9.

(2) Enter into loan agreements or other credit facilities.

(3) Secure any financing with a pledge of, security interest in, or lien on all or part of a property subject to the agreement, including all of the party's property interests in the qualifying project.

(4) Subject to review by the budget committee established in IC 4-12-1-3 and approval by the budget director appointed under IC 4-12-1-3:

(A) establish a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to pay costs incurred under a public-private agreement; or

(B) otherwise create a moral obligation of the state to pay all or part of any costs incurred by the authority under a public-private agreement.

(b) The department and an operator may transfer any interest in property that the department or operator has to the authority to secure the financing.

Sec. 7. Public funds may be used for the purpose of financing a qualifying project and may be mixed and aggregated with funds provided by or on behalf of the operator or other private entities.

Sec. 8. For the purpose of financing a qualifying project, the authority and the operator may apply for, obtain, issue, and use private activity bonds available under any federal law or program.

Sec. 9. Any bonds, debt, other securities, or other financing issued for the purposes of this article shall not be considered to constitute a debt of the state or any political subdivision of the state or a pledge of the faith and credit of the state or any political subdivision.

Chapter 9. Issuance of Debt by Authority

Sec. 1. (a) The authority may, by resolution, issue and sell bonds or notes of the authority for the purpose of providing funds to carry out the provisions of this article with respect to the development, financing, or operation of a project or projects or the refunding of any bonds or notes, together with any costs associated with a transaction.

(b) Bonds or notes issued under this chapter shall be issued in accordance with IC 8-14.5-6 except that the bonds or notes are not required to comply with IC 8-14.5-6-2, IC 8-14.5-6-3, or IC 8-14.5-6-5(b).

Sec. 2. (a) The authority may enter into a lease with the department or the operator, or both, of a project or projects financed under this chapter. The department may lease a project financed under this chapter to the authority or an operator under a public-private agreement.

(b) A lease of a project to the department under this chapter must comply with IC 8-14.5-5 except that:

(1) the lease is not required to comply with IC 8-14.5-5-3(a)(1); and

(2) notwithstanding IC 8-14.5-5-2(a)(2), a lease under this chapter may be extended from biennium to biennium, with the extensions not to exceed a lease term of seventy-five (75) years unless the department gives notice of nonextension at least six (6) months before the end of the biennium, in which event the lease expires at the end of the biennium in which the notice is given.

Sec. 3. The department shall pay lease rentals for leases that the department has entered into under this chapter that secure bonds issued under this chapter from any legally available revenues, including:

(1) payments received from an operator;

(2) federal highway revenues, subject to the limitations in IC 8-14.5-7;

(3) distributions from the state highway fund; and

(4) other funds available to the department for such purpose.

Sec. 4. The bonds or notes issued under this chapter:

(1) constitute the corporate obligations of the authority;

(2) do not constitute an indebtedness of the state within the meaning or application of any constitutional provision or limitation; and

(3) are payable solely as to both principal and interest from:

(A) the revenues from a lease to the department, if any;

(B) proceeds of bonds or notes, if any;

(C) investment earnings on proceeds of bonds or notes; or

(D) other funds available to the authority for such purpose.

Chapter 10. Acquisition of Property

Sec. 1. (a) A public entity may dedicate any property interest that it has for public use as a qualifying project if the public entity finds that dedication of the property interest will serve the public purpose of this article. In connection with the dedication, a public entity may convey any property interest that the public entity has to the operator, subject to the:

(1) conditions imposed by general law governing conveyances; and

(2) provisions of this article;

for the consideration that the public entity considers appropriate.

(b) Consideration for a transfer under this section may include an agreement with the operator to develop, finance, or operate the qualifying project. The property interests that the public entity may convey to the operator in connection with a dedication under this section may include licenses, franchises, easements, or any other right or interest that the public entity considers appropriate.

Sec. 2. The authority, the department, and an operator may enter into the leases, licenses, easements, and other grants of property interests that the department determines necessary to carry out this article.

Chapter 11. Law Enforcement

Sec. 1. All law enforcement officers of the state and of each affected jurisdiction have the same powers and jurisdiction

within the limits of the qualifying project as they have in their respective areas of jurisdiction.

Sec. 2. Law enforcement officers shall have access to the qualifying project at any time for the purpose of exercising the law enforcement officer's powers and jurisdiction. This authority does not extend to the private offices, buildings, garages, and other improvements of the operator to any greater degree than the police power extends to any other private buildings and improvements.

Sec. 3. (a) The traffic and motor vehicle laws of Indiana or, if applicable, any local jurisdiction apply to conduct on a qualifying project to the same extent as they apply to conduct on similar projects in Indiana or the local jurisdiction.

(b) Punishment for infractions and offenses shall be as prescribed by law for conduct occurring on similar projects in Indiana or the local jurisdiction.

Chapter 12. Resolution of Disputes

Sec. 1. The department has exclusive jurisdiction to adjudicate all matters specifically committed to the department's jurisdiction by this article.

Sec. 2. The department shall establish an expedited method for resolving disputes between the department and the parties to a public-private agreement and shall set forth that method in the public-private agreement.

Sec. 3. The department may pay, pursue, mediate, and settle any claim arising out of a public-private agreement.

Sec. 4. A public-private agreement may permit a party to the agreement to submit any claim arising under the agreement to arbitration or alternative dispute resolution under IC 34-57.

Chapter 13. Term of Agreement; Reversion of Property to State

Sec. 1. The term of a public-private agreement, including all extensions, may not exceed seventy-five (75) years. For purposes of measuring the term, the term begins on the date on which operations of a part of the qualifying project by the operator commences.

Sec. 2. The department shall terminate the operator's authority and duties under the public-private agreement on the date set forth in the public-private agreement.

Sec. 3. Upon termination of the public-private agreement, the authority and duties of the operator under this article cease, except for any duties and obligations that extend beyond the termination as set forth in the public-private agreement, and the qualifying project reverts to the department and shall be dedicated to the department for public use.

Chapter 14. Additional Powers of the Authority and the Department With Respect to Qualifying Projects

Sec. 1. The authority or the department may exercise any powers provided under this article in participation or cooperation with any governmental entity and enter into any contracts to facilitate that participation or cooperation without compliance with any other statute.

Sec. 2. The authority or the department may make and enter into all contracts and agreements necessary or incidental to the performance of the authority's or department's duties and the execution of the authority's or department's powers under this article. These contracts or agreements are not subject to any approvals other than the approval of the authority or the department, as applicable, and may be for any term of years and contain any terms that are considered reasonable by the authority or the department.

Sec. 3. The authority or the department may pay the costs incurred under a public-private agreement entered into under this article from any funds legally available to the authority or the department under this article or any other statute.

Sec. 4. For purposes of this article, the department may authorize an operator under a public-private agreement to perform any of its duties under IC 8-15-3-9, IC 8-15-3-16, IC 8-15-3-29, IC 8-15-3-30, and IC 8-15-3-33.

Sec. 5. The department may exercise any of its powers under IC 8-15-3 as necessary or desirable for the performance of its duties and the execution of its powers under this article. In connection with or in anticipation of the exercise by the authority of any powers granted to the authority by this article, the department may authorize the authority to exercise all or part of the powers of the department under this article as necessary or desirable to accomplish the purposes of this article.

Sec. 6. The authority or the department may not take any action under this chapter that would impair the public-private agreement entered into under this article.

Sec. 7. (a) The department shall enter into an agreement between and among the operator, the department, and the state police department concerning the provision of law enforcement assistance with respect to a qualifying project that is the subject of a public-private agreement under this article.

(b) The department may enter into arrangements with the state police department related to costs incurred in providing law enforcement assistance under this article.

Chapter 15. Prohibited Local Action

Sec. 1. A political subdivision (as defined in IC 36-1-2-13) may not take any action that would impair a public-private agreement under this article.

Chapter 16. Prohibited Political Contributions

Sec. 1. The definitions in IC 3-5-2 apply to this chapter to the extent they do not conflict with the definitions in this article.

Sec. 2. As used in this chapter, "candidate" refers to any of the following:

(1) A candidate for a state office.
(2) A candidate for a legislative office.
(3) A candidate for a local office.

Sec. 3. As used in this chapter, "committee" refers to any of the following:

(1) A candidate's committee.
(2) A regular party committee.
(3) A committee organized by a legislative caucus of the house of representatives of the general assembly.
(4) A committee organized by a legislative caucus of the senate of the general assembly.

Sec. 4. As used in this chapter, "officer" refers only to either of the following:

(1) An individual listed as an officer of a corporation in the corporation's most recent annual report.
(2) An individual who is a successor to an individual described in subdivision (1).

Sec. 5. For purposes of this chapter, a person is considered to have an interest in an operator if the person satisfies any of the following:

(1) The person holds at least a one percent (1%) interest in an operator.
(2) The person is an officer of an operator.
(3) The person is an officer of a person that holds at least a one percent (1%) interest in an operator.
(4) The person is a political action committee of an operator.

Sec. 6. An operator is considered to have made a contribution if a contribution is made by a person who has an interest in the operator.

Sec. 7. An operator or a person who has an interest in an operator may not make a contribution to a candidate or a committee during the following periods:

(1) The term during which the operator is a party to a public-private agreement entered into under this article.
(2) The three (3) years following the final expiration or termination of the public-private agreement described in subdivision (1).

Sec. 8. A person who knowingly or intentionally violates this chapter commits a Class D felony.

SECTION 41. IC 8-23-7-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. **(a) Subject to subsection (b),** the department may, after issuing an order and receiving the governor's approval, determine that a state highway should become a tollway. After the order becomes effective, the department shall maintain and operate the tollway and levy and collect tolls as provided in IC 8-15-3 **or enter into a public-private agreement with an operator with respect to the tollway under IC 8-15.7.** Before issuing an order under this section, the department shall submit to the governor a plan to bring the tollway to the current design standards of the department for new state highways within a specified period. The specified period may not exceed five (5) years.

(b) Notwithstanding any other law, the governor, the department, or an operator may not carry out any of the following activities under this section unless the general assembly enacts a statute authorizing that activity:

(1) Determine that a highway, other than Interstate Highway 69 between Interstate Highway 64 and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740), should become a tollway.

(2) Carry out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred (93,500).

(3) Impose tolls on motor vehicles for use of the part of an interstate highway that connects a consolidated city and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

SECTION 42. IC 8-23-7-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) **Subject to subsection (c),** the department may, after issuing an order and receiving the governor's approval, determine that a state highway should become a toll road. An order under this section does not become effective unless the authority adopts a resolution to accept the designated state highway, or part of the highway, as a toll road project under the conditions contained in the order. An order issued by the department under this section must set forth the conditions upon which the transfer of the state highway, or part of the highway, to the authority must occur, including the following:

(1) The consideration, if any, to be paid by the authority to the department.

(2) A requirement that the authority:

(A) enter into a contract or lease with the department with respect to the toll road project under IC 8-9.5-8-7 or IC 8-9.5-8-8; **or**

(B) enter into a public-private agreement with an operator with respect to the toll road under IC 8-15.5.

(b) To complete a transfer under this section, the department must, with the governor's approval, execute a certificate describing the real and personal property constituting or to be transferred with the state highway that is to become a toll road project. Upon delivery of the certificate to the authority, the real and personal property described in the certificate is under the jurisdiction and control of the authority.

(c) Notwithstanding any other law, neither the authority nor an operator may carry out any of the following activities under this section unless the general assembly enacts a statute authorizing that activity:

(1) Carrying out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred (93,500).

(2) Imposing tolls on motor vehicles for use of the part of an interstate highway that connects a consolidated city and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

SECTION 43. IC 8-23-9-54 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 54. (a) To provide funds for carrying out the provisions of this chapter, there is created a state highway fund from the following sources:

(1) All money in the general fund to the credit of the state highway account.

(2) All money that is received from the Department of Transportation or other federal agency and known as federal aid.

(3) All money paid into the state treasury to reimburse the state for money paid out of the state highway fund.

(4) All money provided by Indiana law for the construction, maintenance, reconstruction, repair, and control of public highways, as provided under this chapter.

(5) All money that on May 22, 1933, was to be paid into the state highway fund under contemplation of any statute in force as of May 22, 1933.

(6) All money that may at any time be appropriated from the state treasury.

(7) Any part of the state highway fund unexpended at the expiration of any fiscal year, which shall remain in the fund and be available for the succeeding years.

(8) Any money credited to the state highway fund from the motor vehicle highway account under IC 8-14-1-3(4).

(9) Any money credited to the state highway fund from the highway road and street fund under IC 8-14-2-3.

(10) Any money credited to the state highway fund under IC 6-6-1.1-801.5, IC 6-6-4.1-5, or IC 8-16-1-17.1.

(11) Any money distributed to the state highway fund under IC 8-14-14, IC 8-15.5, or IC 8-15.7.

(b) All expenses incurred in carrying out this chapter shall be paid out of the state highway fund.

SECTION 44. IC 9-13-2-6.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.3. "Automated traffic law enforcement system", for purposes of IC 9-21, has the meaning set forth in IC 9-21-3.5-2.**

SECTION 45. IC 9-21-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 3.5. Automated Traffic Law Enforcement System

Sec. 1. As used in this chapter, "authority" refers to the Indiana finance authority.

Sec. 2. As used in this chapter, "automated traffic law enforcement system" means a device that:

(1) has one (1) or more motor vehicle sensors; and

(2) is capable of producing a photographically recorded image of a motor vehicle, including an image of the vehicle's front or rear license plate, as the vehicle proceeds through a tollgate, toll zone, or other area on a tollway, qualifying project, or toll road that is marked as required by the department, the authority, or an operator as a place where a person using the tollway, qualifying project, or toll road must pay a toll or is otherwise subject to a fee for using the tollway, qualifying project, or toll road.

Sec. 3. As used in this chapter, "department" refers to the Indiana department of transportation.

Sec. 4. As used in this chapter, "operator" has the meaning set forth in IC 8-15.5-2-5 or IC 8-15.7-2-11.

Sec. 5. As used in this chapter, "owner" means a person in whose name a motor vehicle is registered under:

(1) IC 9-18;

(2) the laws of another state;

(3) the laws of a foreign country; or

(4) the International Registration Plan.

Sec. 6. As used in this chapter, "qualifying project" has the meaning set forth in IC 8-15.7-2-16.

Sec. 7. As used in this chapter, "toll road" has the meaning set forth for "toll road project" in IC 8-15-2-4(4).

Sec. 8. As used in this chapter, "tollway" has the meaning set forth in IC 8-15-3-7.

Sec. 9. The owner of a motor vehicle, other than an authorized emergency vehicle, that is driven or towed through a toll collection facility on a toll road, tollway, or qualifying project shall pay the proper toll.

Sec. 10. The department or the authority may adopt and enforce rules concerning:

(1) the placement and use of automated traffic law enforcement systems to enforce collection of user fees;

(2) required notification to owners of toll violations;

(3) the process for collection and enforcement of unpaid amounts;

(4) the amount of fines, charges, and assessments for toll violations; and

(5) other matters relating to automated traffic law enforcement systems that the department or the authority considers appropriate.

Sec. 11. Before enforcing a rule adopted under section 10 of this chapter, the department, the authority, or an operator must install advance warning signs along the tollways, toll roads, or

qualifying projects proceeding to the location at which an automated traffic law enforcement system is located.

Sec. 12. (a) In the prosecution of a toll violation, proof that the motor vehicle was driven or towed through the toll collection facility without payment of the proper toll may be shown by a video recording, a photograph, an electronic recording, or other appropriate evidence, including evidence obtained by an automated traffic law enforcement system.

(b) In the prosecution of a toll violation:

(1) it is presumed that any notice of nonpayment was received on the fifth day after the date of mailing; and

(2) a computer record of the department, the authority, or the operator of the registered owner of the vehicle is prima facie evidence of its contents and that the toll violator was the registered owner of the vehicle at the time of the underlying event of nonpayment.

Sec. 13. (a) For purposes of this section, "transponder" means a device, placed on or within a motor vehicle, that is capable of transmitting information used to assess or collect tolls. A transponder is "insufficiently funded" when there are no remaining funds in the account in connection with which the transponder was issued.

(b) Any police officer of Indiana may seize a stolen or insufficiently funded transponder and return it to the department, the authority, or an operator, except that an insufficiently funded transponder may not be seized from the holder of an account sooner than the thirtieth day after the date the department, the authority, or an operator has sent a notice of delinquency to the holder of the account.

(c) The department or the authority may enter into an agreement with one (1) or more persons to market and sell transponders for use on tollways, toll roads, or qualifying projects.

(d) The department, the authority, or an operator may charge reasonable fees for initiating, administering, and maintaining electronic toll collection customer accounts.

(e) Electronic toll collection customer account information, including contact and payment information and trip data, is confidential and not subject to disclosure under IC 5-14-3. A contract for the acquisition, construction, maintenance, or operation of a tollway, toll road, or qualifying project must ensure the confidentiality of all electronic toll collection customer account information.

SECTION 46. IC 22-4-25-1, AS AMENDED BY P.L.202-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) There is created in the state treasury a special fund to be known as the special employment and training services fund. All interest on delinquent contributions and penalties collected under this article, together with any voluntary contributions tendered as a contribution to this fund, shall be paid into this fund. The money shall not be expended or available for expenditure in any manner which would permit their substitution for (or a corresponding reduction in) federal funds which would in the absence of said money be available to finance expenditures for the administration of this article, but nothing in this section shall prevent said money from being used as a revolving fund to cover expenditures necessary and proper under the law for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The money in this fund shall be used by the board for the payment of refunds of interest on delinquent contributions and penalties so collected, for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds received for or in the employment and training services administration fund, on and after July 1, 1945. Such money shall be available either to satisfy the obligations incurred by the board directly, or by transfer by the board of the required amount from the special employment and training services fund to the employment and training services administration fund. No expenditure of this fund shall be made unless and until the board finds that no other funds are available or can properly be used to finance such expenditures, except that expenditures from said fund may be made for the purpose of acquiring lands and buildings or for the erection of buildings on lands so acquired which are deemed necessary by the board for the proper administration of this article. The board shall order the transfer of such funds or the payment of any such obligation or expenditure and such funds shall be paid by the treasurer of state on requisition drawn by the board directing the auditor of state to issue the auditor's warrant therefor. Any such warrant shall be drawn by the state auditor based upon vouchers certified by the board or the commissioner. The money in this fund is hereby specifically made available to replace within a reasonable time any money received by this state pursuant to 42 U.S.C. 502, as amended, which, because of any action or contingency, has been lost or has been expended for purposes other than or in amounts in excess of those approved by the bureau of employment security. The money in this fund shall be continuously available to the board for expenditures in accordance with the provisions of this section and shall not lapse at any time or be transferred to any other fund, except as provided in this article. Nothing in this section shall be construed to limit, alter, or amend the liability of the state assumed and created by IC 22-4-28, or to change the procedure prescribed in IC 22-4-28 for the satisfaction of such liability, except to the extent that such liability may be satisfied by and out of the funds of such special employment and training services fund created by this section.

(b) The board, subject to the approval of the budget agency and governor, is authorized and empowered to use all or any part of the funds in the special employment and training services fund for the purpose of acquiring suitable office space for the department by way of purchase, lease, contract, or in any part thereof to purchase land and erect thereon such buildings as the board determines necessary or to assist in financing the construction of any building erected by the state or any of its agencies wherein available space will be provided for the department under lease or contract between the department and the state or such other agency. The commissioner may transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of any land and buildings acquired for its use until such time as the full amount of the purchase price of such land and buildings and such cost of repair and maintenance thereof as was expended from the special employment and training services fund has been returned to such fund.

(c) The board may also transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of space used by the department in any building erected by the state or any of its agencies until such time as the department's proportionate amount of the purchase price of such building and the department's proportionate amount of such cost of repair and maintenance thereof as was expended from the special employment and training services fund has been returned to such fund.

(d) Whenever the balance in the special employment and training services fund is deemed excessive by the board, the board shall order payment into the unemployment insurance benefit fund of the amount of the special employment and training services fund deemed to be excessive.

(e) Subject to the approval of the board, the commissioner may use not more than five million dollars ($5,000,000) during a program year for training provided by the state educational institution established under IC 20-12-61 to participants in joint labor and management apprenticeship programs approved by the United States Department of Labor's Bureau of Apprenticeship Training. Of the money allocated for training programs under this subsection, fifty percent (50%) is designated for industrial programs, and the remaining fifty (50%) percent is designated for building trade programs.

~~(f) The commissioner shall allocate an amount not to exceed four hundred fifty thousand dollars ($450,000) annually for training and counseling assistance under IC 22-4-14-2 provided by state educational institutions (as defined in IC 20-12-0.5-1) or counseling provided by the department of workforce development for individuals who:~~

~~(1) have been unemployed for at least four (4) weeks;~~

~~(2) are not otherwise eligible for training and counseling assistance under any other program; and~~

~~(3) are not participating in programs that duplicate those programs described in subsection (e).~~

~~Training or counseling provided under IC 22-4-14-2 does not excuse the claimant from complying with the requirements of IC 22-4-14-3. Eligibility for training and counseling assistance under this subsection shall not be determined until after the fourth week of eligibility forunemployment training compensation benefits. The training and counseling assistance programs funded by this subsection must be approved by the United States Department of Labor's Bureau of Apprenticeship Training.~~

SECTION 47. IC 22-4-25-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2.5. (a) In support of IC 8-14-14, IC 8-15-2, IC 8-15-3, and IC 8-15.5, the commissioner shall allocate an amount not to exceed two million dollars ($2,000,000) annually for pre-apprenticeship and apprenticeship training and counseling assistance relating to the construction trades for individuals who:**

(1) are not otherwise eligible for training and counseling assistance under any other program; and

(2) are not participating in programs that duplicate those programs described in section 1(e) of this chapter.

Priority shall be granted to training or counseling persons who are members of a minority group (as defined by IC 4-13-16.5-1). The training and counseling assistance programs funded by this section must be approved by the department.

(b) This section expires December 31, 2012.

SECTION 48. IC 34-13-3-3, AS AMENDED BY P.L.208-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A governmental entity or an employee acting within the scope of the employee's employment is not liable if a loss results from the following:

(1) The natural condition of unimproved property.

(2) The condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person for a purpose that is not foreseeable.

(3) The temporary condition of a public thoroughfare or extreme sport area that results from weather.

(4) The condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreation or scenic area.

(5) The design, construction, control, operation, or normal condition of an extreme sport area, if all entrances to the extreme sport area are marked with:

(A) a set of rules governing the use of the extreme sport area;

(B) a warning concerning the hazards and dangers associated with the use of the extreme sport area; and

(C) a statement that the extreme sport area may be used only by persons operating extreme sport equipment.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain extreme sports areas in a reasonably safe condition.

(6) The initiation of a judicial or an administrative proceeding.

(7) The performance of a discretionary function; however, the provision of medical or optical care as provided in IC 34-6-2-38 shall be considered as a ministerial act.

(8) The adoption and enforcement of or failure to adopt or enforce a law (including rules and regulations), unless the act of enforcement constitutes false arrest or false imprisonment.

(9) An act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid.

(10) The act or omission of anyone other than the governmental entity or the governmental entity's employee.

(11) The issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law.

(12) Failure to make an inspection, or making an inadequate or negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety.

(13) Entry upon any property where the entry is expressly or impliedly authorized by law.

(14) Misrepresentation if unintentional.

(15) Theft by another person of money in the employee's official custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission.

(16) Injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by section 7 of this chapter.

(17) Injury to the person or property of a person under supervision of a governmental entity and who is:

(A) on probation; or

(B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, a pretrial conditional release program under IC 35-33-8, or a community corrections program under IC 11-12.

(18) Design of a highway (as defined in IC 9-13-2-73), **toll road project (as defined in IC 8-15-2-4(4)), tollway (as defined in IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14)** if the claimed loss occurs at least twenty (20) years after the public highway, **toll road project, tollway, or project** was designed or substantially redesigned; except that this subdivision shall not be construed to relieve a responsible governmental entity from the continuing duty to provide and maintain public highways in a reasonably safe condition.

(19) Development, adoption, implementation, operation, maintenance, or use of an enhanced emergency communication system.

(20) Injury to a student or a student's property by an employee of a school corporation if the employee is acting reasonably under a discipline policy adopted under IC 20-33-8-7(b).

(21) An error resulting from or caused by a failure to recognize the year 1999, 2000, or a subsequent year, including an incorrect date or incorrect mechanical or electronic interpretation of a date, that is produced, calculated, or generated by:

(A) a computer;

(B) an information system; or

(C) equipment using microchips;

that is owned or operated by a governmental entity. However, this subdivision does not apply to acts or omissions amounting to gross negligence, willful or wanton misconduct, or intentional misconduct. For purposes of this subdivision, evidence of gross negligence may be established by a party by showing failure of a governmental entity to undertake an effort to review, analyze, remediate, and test its electronic information systems or by showing failure of a governmental entity to abate, upon notice, an electronic information system error that caused damage or loss. However, this subdivision expires June 30, 2003.

(22) An act or omission performed in good faith under the apparent authority of a court order described in IC 35-46-1-15.1 that is invalid, including an arrest or imprisonment related to the enforcement of the court order, if the governmental entity or employee would not have been liable had the court order been valid.

(23) An act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield (as defined in IC 13-11-2-19.3) unless:

(A) the loss is a result of reckless conduct; or

(B) the governmental entity was responsible for the initial placement of the hazardous substances, petroleum, or other pollutants on the brownfield.

SECTION 49. IC 36-7.5-1-11, AS ADDED BY P.L.214-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. "Eligible county" refers to the following counties:

(1) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(2) A county having a population of more than one hundred

forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000).

(3) A county having a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000), if:

(A) the fiscal body of the county has adopted an ordinance under IC 36-7.5-2-3(e) providing that the county is joining the development authority; and

(B) the fiscal body of the city described in IC 36-7.5-2-3(e) has adopted an ordinance under IC 36-7.5-2-3(e) providing that the city is joining the development authority.

SECTION 50. IC 36-7.5-1-12, AS ADDED BY P.L.214-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. "Eligible political subdivision" means the following:

(1) An airport authority.

(2) A commuter transportation district.

(3) A regional bus authority under IC 36-9-3-2(c).

(4) A regional transportation authority established under IC 36-9-3-2.

~~(4)~~ **(5)** A shoreline development commission under IC 36-7-13.5.

SECTION 51. IC 36-7.5-1-13, AS ADDED BY P.L.214-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. "Project" means an airport authority project, a commuter transportation district project, an economic development project, a regional bus authority project, **a regional transportation authority project,** or a shoreline development commission project.

SECTION 52. IC 36-7.5-1-15.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 15.3. "Regional transportation authority" means a regional transportation authority established under IC 36-9-3-2.**

SECTION 53. IC 36-7.5-1-15.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 15.6. "Regional transportation authority project" means a project that can be financed with the proceeds of bonds issued by a regional transportation authority under IC 36-9-3.**

SECTION 54. IC 36-7.5-2-1, AS ADDED BY P.L.214-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The northwest Indiana regional development authority is established as a separate body corporate and politic to carry out the purposes of this article by:

(1) acquiring, constructing, equipping, owning, leasing, and financing projects and facilities for lease to or for the benefit of eligible political subdivisions under this article; ~~and~~

(2) funding and developing the Gary/Chicago International Airport expansion and other airport authority projects, commuter transportation district and other rail projects and services, regional bus authority projects and services, **regional transportation authority projects and services,** shoreline development projects and activities, and economic development projects in northwestern Indiana; **and**

(3) assisting with the funding of infrastructure needed to sustain development of an intermodal facility in northwestern Indiana.

SECTION 55. IC 36-7.5-2-3, AS ADDED BY P.L.214-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The development authority is governed by the development board appointed under this section.

(b) **Except as provided in subsections (e) and (f),** the development board is composed of the following seven (7) members:

(1) Two (2) members appointed by the governor. One (1) of the members appointed by the governor under this subdivision must be an individual nominated under subsection (d). The members appointed by the governor under this subdivision serve at the pleasure of the governor.

(2) The following members from a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) One (1) member appointed by the mayor of the largest city in the county in which a riverboat is located.

(B) One (1) member appointed by the mayor of the second largest city in the county in which a riverboat is located.

(C) One (1) member appointed by the mayor of the third largest city in the county in which a riverboat is located.

(D) One (1) member appointed jointly by the county executive and the county fiscal body. A member appointed under this clause may not reside in a city described in clause (A), (B), or (C).

(3) One (1) member appointed jointly by the county executive and county fiscal body of a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000).

(c) A member appointed to the development board must have knowledge and at least five (5) years professional work experience in at least one (1) of the following:

(1) Rail transportation or air transportation.

(2) Regional economic development.

(3) Business or finance.

(d) The mayor of the largest city in a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000) shall nominate three (3) residents of the county for appointment to the development board. One (1) of the governor's initial appointments under subsection (b)(1) must be an individual nominated by the mayor. At the expiration of the member's term, the mayor of the second largest city in the county shall nominate three (3) residents of the county for appointment to the development board. One (1) of the governor's appointments under subsection (b)(1) must be an individual nominated by the mayor. Thereafter, the authority to nominate the three (3) members from which the governor shall make an appointment under subsection (b)(1) shall alternate between the mayors of the largest and the second largest city in the county at the expiration of a member's term.

(e) A county having a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000) shall be an eligible county participating in the development authority if the fiscal body of the county adopts an ordinance before September 15, 2006, providing that the county is joining the development authority, and the fiscal body of a city that is located in the county and that has a population of more than thirty-two thousand eight hundred (32,800) but less than thirty-three thousand (33,000) adopts an ordinance before September 15, 2006, providing that the city is joining the development authority. Notwithstanding subsection (b), if ordinances are adopted under this subsection and the county becomes an eligible county participating in the development authority:

(1) the development board shall be composed of nine (9) members rather than seven (7) members; and

(2) the additional two (2) members shall be appointed in the following manner:

(A) One (1) additional member shall be appointed by the governor and shall serve at the pleasure of the governor. The member appointed under this clause must be an individual nominated under subsection (f).

(B) One (1) additional member shall be appointed jointly by the county executive and county fiscal body.

(f) This subsection applies only if the county described in subsection (e) is an eligible county participating in the development authority. The mayor of the largest city in the county described in subsection (e) shall nominate three (3) residents of the county for appointment to the development board. The governor's initial appointment under subsection (e)(2)(A) must be an individual nominated by the mayor. At the expiration of the member's term, the mayor of the second largest city in the county described in subsection (e) shall nominate three (3) residents of the county for appointment to the development board. The governor's second appointment under subsection (e)(2)(A) must be an individual nominated by the mayor. Thereafter, the authority to nominate the three (3) individuals from among whom the governor shall make an appointment

under subsection (e)(2)(A) shall alternate between the mayors of the largest and the second largest city in the county at the expiration of a member's term.

~~(c)~~ **(g)** An individual or entity required to make an appointment under subsection (b) or nominations under subsection (d) must make the initial appointment before September 1, 2005, or the initial nomination before August 15, 2005. If an individual or entity does not make an initial appointment under subsection (b) before September 1, 2005, or the initial nominations required under subsection (d) before September 1, 2005, the governor shall instead make the initial appointment.

SECTION 56. IC 36-7.5-2-4, AS ADDED BY P.L.214-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Except as provided in subsection (b) for the initial appointments to the development board, a member appointed to the development board serves a four (4) year term. However, a member serves at the pleasure of the appointing authority. A member may be reappointed to subsequent terms.

(b) The terms of the initial members appointed to the development board are as follows:

(1) The initial member appointed by the governor who is not nominated under section 3(d) **or 3(f)** of this chapter shall serve a term of four (4) years.

(2) The initial member appointed by the governor who is nominated under section 3(d) of this chapter shall serve a term of two (2) years. **If a member is appointed under section 3(e)(2)(A) of this chapter, the initial member who is appointed under that provision shall serve a term of two (2) years.**

(3) The initial member appointed under section 3(b)(2)(D) of this chapter shall serve a term of three (3) years.

(4) The initial member appointed under section 3(b)(3) of this chapter shall serve a term of three (3) years.

(5) The initial members appointed under section 3(b)(2)(A) through 3(b)(2)(C) of this chapter shall serve a term of two (2) years.

(6) If a member is appointed under section 3(e)(2)(B) of this chapter, the initial member appointed under that provision shall serve a term of three (3) years.

(c) If a vacancy occurs on the development board, the appointing authority that made the original appointment shall fill the vacancy by appointing a new member for the remainder of the vacated term.

(d) Each member appointed to the development board, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the development board.

(e) A member appointed to the development board is not entitled to receive any compensation for performance of the member's duties. However, a member is entitled to a per diem from the development authority for the member's participation in development board meetings. The amount of the per diem is equal to the amount of the per diem provided under IC 4-10-11-2.1(b).

SECTION 57. IC 36-7.5-2-5, AS ADDED BY P.L.214-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The member appointed by the governor under section 3(b)(1) of this chapter but not nominated under section 3(d) **or 3(f)** of this chapter shall serve as chair of the development board until January 2013. At the election under subsection (b) in 2013 and each year thereafter, the chair shall be elected from among the members of the development board.

(b) In January of each year, the development board shall hold an organizational meeting at which the development board shall elect the following officers from the members of the development board:

(1) After December 31, 2012, a chair.

(2) A vice chair.

(3) A secretary-treasurer.

(c) Not more than two (2) members from any particular county may serve as an officer described in subsection (a) or elected under subsection (b). The affirmative vote of at least five (5) members of the development board is necessary to elect an officer under subsection (b). **However, if the county described in section 3(e) of this chapter is an eligible county participating in the development authority, the affirmative vote of at least six (6) members of the development board is necessary to elect an officer under subsection (b).**

(d) An officer elected under subsection (b) serves from the date of the officer's election until the officer's successor is elected and qualified.

SECTION 58. IC 36-7.5-2-6, AS ADDED BY P.L.214-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The development board shall meet at least quarterly.

(b) The chair of the development board or any two (2) members of the development board may call a special meeting of the development board.

(c) Five (5) members of the development board constitute a quorum. **However, if the county described in section 3(e) of this chapter is an eligible county participating in the development authority, six (6) members of the development board constitute a quorum.**

(d) The affirmative votes of at least five (5) members of the development board are necessary to authorize any action of the development authority. **However, if the county described in section 3(e) of this chapter is an eligible county participating in the development authority, the affirmative votes of at least six (6) members of the development board are necessary to authorize any action of the development authority.**

(e) Notwithstanding any other provision of this article, the minimum **number** of ~~at least five (5)~~ affirmative votes required under subsection (d) to take any of the following actions must include the affirmative vote of the member appointed by the governor who is not nominated under section 3(d) **or 3(f)** of this chapter:

(1) Making loans, loan guarantees, or grants or providing any other funding or financial assistance for projects.

(2) Acquiring or condemning property.

(3) Entering into contracts.

(4) Employing an executive director or any consultants or technical experts.

(5) Issuing bonds or entering into a lease of a project.

SECTION 59. IC 36-7.5-3-1, AS ADDED BY P.L.214-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The development authority shall do the following:

(1) Assist in the coordination of local efforts concerning projects.

(2) Assist a commuter transportation district, an airport authority, a shoreline development commission, **a regional transportation authority,** and a regional bus authority in coordinating regional transportation and economic development efforts.

(3) Fund projects as provided in this article.

(4) Fund bus services (including fixed route services and flexible or demand-responsive services) and projects related to bus services and bus terminals, stations, or facilities.

SECTION 60. IC 36-7.5-3-2, AS ADDED BY P.L.214-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The development authority may do any of the following:

(1) Finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip land and projects located in an eligible county.

(2) Lease land or a project to an eligible political subdivision.

(3) Finance and construct additional improvements to projects or other capital improvements owned by the development authority and lease them to or for the benefit of an eligible political subdivision.

(4) Acquire land or all or a portion of one (1) or more projects from an eligible political subdivision by purchase or lease and lease the land or projects back to the eligible political subdivision, with any additional improvements that may be made to the land or projects.

(5) Acquire all or a portion of one (1) or more projects from an eligible political subdivision by purchase or lease to fund or refund indebtedness incurred on account of the projects to enable the eligible political subdivision to make a savings in debt service obligations or lease rental obligations or to obtain

relief from covenants that the eligible political subdivision considers to be unduly burdensome.

(6) Make loans, loan guarantees, and grants or provide other financial assistance to or on behalf of the following:

(A) A commuter transportation district.

(B) An airport authority or airport development authority.

(C) A shoreline development commission.

(D) A regional bus authority. A loan, loan guarantee, grant, or other financial assistance under this clause may be used by a regional bus authority for acquiring, improving, operating, maintaining, financing, and supporting the following:

(i) Bus services (including fixed route services and flexible or demand-responsive services) that are a component of a public transportation system.

(ii) Bus terminals, stations, or facilities or other regional bus authority projects.

(E) A regional transportation authority.

(7) Provide funding to assist a railroad that is providing commuter transportation services in an eligible county.

(8) Provide funding to assist an airport authority located in an eligible county in the construction, reconstruction, renovation, purchase, lease, acquisition, and equipping of an airport facility or airport project.

(9) Provide funding to assist in the development of an intermodal facility to facilitate the interchange and movement of freight.

~~(9)~~ **(10)** Provide funding to assist a shoreline development commission in carrying out the purposes of IC 36-7-13.5.

~~(10)~~ **(11)** Provide funding for economic development projects in an eligible county.

~~(11)~~ **(12)** Hold, use, lease, rent, purchase, acquire, and dispose of by purchase, exchange, gift, bequest, grant, condemnation, lease, or sublease, on the terms and conditions determined by the development authority, any real or personal property located in an eligible county.

~~(12)~~ **(13)** After giving notice, enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a project.

~~(13)~~ **(14)** Make or enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this article.

~~(14)~~ **(15)** Sue, be sued, plead, and be impleaded.

~~(15)~~ **(16)** Design, order, contract for, and construct, reconstruct, and renovate a project or improvements to a project.

~~(16)~~ **(17)** Appoint an executive director and employ appraisers, real estate experts, engineers, architects, surveyors, attorneys, accountants, auditors, clerks, construction managers, and any consultants or employees that are necessary or desired by the development authority in exercising its powers or carrying out its duties under this article.

~~(17)~~ **(18)** Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a political subdivision, or any other public or private source.

~~(18)~~ **(19)** Use the development authority's funds to match federal grants or make loans, loan guarantees, or grants to carry out the development authority's powers and duties under this article.

~~(19)~~ **(20)** Except as prohibited by law, take any action necessary to carry out this article.

(b) If the development authority is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this article, the development authority may proceed under IC 32-24-1 to procure the condemnation of the property. The development authority may not institute a proceeding until it has adopted a resolution that:

(1) describes the real property sought to be acquired and the purpose for which the real property is to be used;

(2) declares that the public interest and necessity require the acquisition by the development authority of the property involved; and

(3) sets out any other facts that the development authority considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition.

SECTION 61. IC 36-7.5-4-2, AS ADDED BY P.L.214-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) **Except as provided in subsection (b),** beginning in 2006 the fiscal officer of each city and county described in IC 36-7.5-2-3(b) ~~(other than the two (2) largest cities in a county described in IC 36-7.5-2-3(b)(1))~~ shall each transfer three million five hundred thousand dollars ($3,500,000) each year to the development authority for deposit in the development authority fund established under section 1 of this chapter.

(b) This subsection applies only if:

(1) the fiscal body of the county described in IC 36-7.5-2-3(e) has adopted an ordinance under IC 36-7.5-2-3(e) providing that the county is joining the development authority;

(2) the fiscal body of the city described in IC 36-7.5-2-3(e) has adopted an ordinance under IC 36-7.5-2-3(e) providing that the city is joining the development authority; and

(3) the county described in IC 36-7.5-2-3(e) is an eligible county participating in the development authority.

Beginning in 2007, the fiscal officer of the county described in IC 36-7.5-2-3(e) shall transfer two million six hundred twenty-five thousand dollars ($2,625,000) each year to the development authority for deposit in the development authority fund established under section 1 of this chapter. Beginning in 2007, the fiscal officer of the city described in IC 36-7.5-2-3(e) shall transfer eight hundred seventy-five thousand dollars ($875,000) each year to the development authority for deposit in the development authority fund established under section 1 of this chapter.

~~(b)~~ **(c)** The following apply to the transfers required by ~~subsection (a).~~ **subsections (a) and (b):**

(1) **Except for transfers of money described in subdivision (4)(D),** the transfers shall be made without appropriation by the city or county fiscal body or approval by any other entity.

(2) **Except as provided in subdivision (3),** after December 31, 2005, each fiscal officer shall transfer eight hundred seventy-five thousand dollars ($875,000) to the development authority fund before the last business day of January, April, July, and October of each year. Food and beverage tax revenue deposited in the fund under IC 6-9-36-8 is in addition to the transfers required by this section.

(3) After December 31, 2006, the fiscal officer of the county described in IC 36-7.5-2-3(e) shall transfer six hundred fifty-six thousand two hundred fifty dollars ($656,250) to the development authority fund before the last business day of January, April, July, and October of each year. The county is not required to make any payments or transfers to the development authority covering any time before January 1, 2007. The fiscal officer of a city described in IC 36-7.5-2-3(e) shall transfer two hundred eighteen thousand seven hundred fifty dollars ($218,750) to the development authority fund before the last business day of January, April, July, and October of each year. The city is not required to make any payments or transfers to the development authority covering any time before January 1, 2007.

~~(3)~~ **(4)** The transfers shall be made from one (1) or more of the following:

(A) Riverboat admissions tax revenue received by the city or county, riverboat wagering tax revenue received by the city or county, or riverboat incentive payments received from a riverboat licensee by the city or county.

(B) Any county economic development income tax revenue received under IC 6-3.5-7 by the city or county.

(C) Any other local revenue other than property tax revenue received by the city or county.

(D) In the case of a county described in IC 36-7.5-2-3(e) or a city described in IC 36-7.5-2-3(e), any money from the major moves construction fund that is distributed to the county or city under IC 8-14-16.

SECTION 62. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "authority" and "user fees" have the meanings**

set forth in IC 8-15.5-2, as added by this act.

(b) The authority shall adopt a rule under IC 4-22-2-37.1, as amended by this act, fixing user fees, including a schedule of the user fees provided for under a public-private agreement entered into under IC 8-15.5-4, as added by this act, on or before January 1, 2007.

(c) This SECTION expires July 1, 2007.

SECTION 63. [EFFECTIVE UPON PASSAGE] **The Indiana department of transportation may adopt temporary rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1, as amended by this act, to implement IC 8-15-3, as amended by this act, and IC 8-15.7, as added by this act. A temporary rule adopted under this SECTION expires on the earliest of the following:**

(1) The date that another temporary rule adopted under this SECTION supersedes or repeals the previously adopted temporary rule.

(2) The date that a permanent rule adopted under IC 4-22-2 supersedes or repeals the temporary rule.

(3) The date specified in the temporary rule.

(4) January 1, 2008.

SECTION 64. [EFFECTIVE UPON PASSAGE] **The provisions of this act are severable in the manner provided by IC 1-1-1-8(b).**

SECTION 65. [EFFECTIVE UPON PASSAGE] **(a) The definitions set forth in IC 8-15.5-2, as added by this act, apply throughout this SECTION.**

(b) Actions taken with respect to:

(1) the issuance of a request for proposals;

(2) the determination of responsible and eligible offerors; and

(3) the preliminary selection of an operator by the authority;

for a public-private agreement before the effective date of this act that would have been valid under IC 8-15.5, as added by this act, are legalized and validated.

SECTION 66. **An emergency is declared for this act.**

(Reference is to EHB 1008 as reprinted March 2, 2006, and as amended by the committee report of the committee of one adopted March 2, 2006.)

BORROR	MEEKS
ESPICH	HOWARD
House Conferees	Senate Conferees

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

CONFERENCE COMMITTEE REPORT

EHB 1338–1; filed March 14, 2006, at 6:29 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 1338 respectfully reports that said two committee have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-2-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) ~~As used~~ **The following definitions apply** in this section:

(1) "Abuse" means:

(A) conduct that causes bodily injury (as defined in IC 35-41-1-4) or damage to property; or

(B) a threat of conduct that would cause bodily injury (as defined in IC 35-41-1-4) or damage to property.

(2) "County law enforcement agency" includes:

(A) university police officers appointed under IC 20-12-3.5; **and**

(B) school corporation police officers appointed under IC 20-26-16.

(b) There is established in each county a county law enforcement continuing education program. The program is funded by amounts appropriated under IC 33-37-8-6.

(c) A county law enforcement agency receiving amounts based upon claims for law enforcement continuing education funds under IC 33-37-8-4 or IC 33-37-8-6 shall deposit each fee collected into the county law enforcement continuing education fund.

(d) Distribution of money in the county law enforcement continuing education fund shall be made to a county law enforcement agency without the necessity of first obtaining an appropriation from the county fiscal body.

(e) Money in excess of one hundred dollars ($100) that is unencumbered and remains in a county law enforcement continuing education fund for at least one (1) entire calendar year from the date of its deposit shall, at the end of a county's fiscal year, be deposited by the county auditor in the law enforcement training fund established under IC 5-2-1-13(b).

(f) To make a claim under IC 33-37-8-6, a law enforcement agency shall submit to the fiscal body a verified statement of cause numbers for fees collected that are attributable to the law enforcement efforts of that agency.

(g) A law enforcement agency shall submit a claim for fees under this section in the same county fiscal year in which the fees are collected under IC 33-37-4.

(h) A county law enforcement agency program shall provide to each law enforcement officer employed by the county and may provide to each law enforcement officer employed by a city or town law enforcement agency within the county continuing education concerning the following:

(1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent injunctions involving abuse.

(2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.

(3) Techniques for handling incidents of abuse that:

(A) minimize the likelihood of injury to the law enforcement officer; and

(B) promote the safety of a victim.

(4) Information about the nature and extent of abuse.

(5) Information about the legal rights of and remedies available to victims of abuse.

(6) How to document and collect evidence in an abuse case.

(7) The legal consequences of abuse.

(8) The impact on children of law enforcement intervention in abuse cases.

(9) Services and facilities available to victims of abuse and abusers.

(10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.

(11) Policies concerning arrest or release of suspects in abuse cases.

(12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.

(13) Landlord-tenant concerns in abuse cases.

(14) The taking of an abused child into protective custody.

(15) Assessment of a situation in which a child may be seriously endangered if the child is left in the child's home.

(16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).

(17) Response to a sudden, unexpected infant death.

(i) A county law enforcement agency may enter into an agreement with other law enforcement agencies to provide the continuing education required by this section and section 2(f) of this chapter.

SECTION 2. IC 5-2-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) ~~As used~~ **The following definitions apply** in this section:

(1) "Abuse" has the meaning set forth in section 1(a) of this chapter.

(2) "City or town law enforcement agency" includes:

(A) university police officers appointed under IC 20-12-3.5; **and**

(B) school corporation police officers appointed under IC 20-26-16.

(b) There is established in each city and in each town with a city or town court a local law enforcement continuing education program. The program is funded by amounts appropriated under IC 33-37-8-4 and fees collected under IC 9-29-4-2, IC 9-29-11-1, and

IC 35-47-2-3.

(c) A city or town law enforcement agency receiving amounts based upon claims for law enforcement continuing education funds under IC 33-37-8-4 or IC 33-37-8-6 shall deposit each fee collected into the local law enforcement continuing education fund.

(d) Distribution of money in a local law enforcement continuing education fund shall be made to a city or town law enforcement agency without the necessity of first obtaining an appropriation from the fiscal body of the city or town.

(e) To make a claim under IC 33-37-8-4, a law enforcement agency shall submit to the fiscal body a verified statement of cause numbers for fees collected that are attributable to the law enforcement efforts of that agency.

(f) A city or town law enforcement agency shall provide to each law enforcement officer employed by the city or town law enforcement agency continuing education concerning the following:

(1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent injunctions involving abuse.

(2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.

(3) Techniques for handling incidents of abuse that:

(A) minimize the likelihood of injury to the law enforcement officer; and

(B) promote the safety of a victim.

(4) Information about the nature and extent of abuse.

(5) Information about the legal rights of and remedies available to victims of abuse.

(6) How to document and collect evidence in an abuse case.

(7) The legal consequences of abuse.

(8) The impact on children of law enforcement intervention in abuse cases.

(9) Services and facilities available to victims of abuse and abusers.

(10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.

(11) Policies concerning arrest or release of suspects in abuse cases.

(12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.

(13) Landlord-tenant concerns in abuse cases.

(14) The taking of an abused child into protective custody.

(15) Assessment of a situation in which the child may be seriously endangered if the child is left in the child's home.

(16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).

(17) Response to a sudden, unexpected infant death.

(g) A city or town law enforcement agency may enter into an agreement with other county, city, or town law enforcement agencies to provide the continuing education required by this section and section 1(h) of this chapter.

SECTION 3. IC 5-10-10-4, AS AMENDED BY P.L.10-2005, SECTION 1, AS AMENDED BY P.L.170-2005, SECTION 16, AND AS AMENDED BY P.L.227-2005, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. As used in this chapter, "public safety officer" means any of the following:

(1) A state police officer.

(2) A county sheriff.

(3) A county police officer.

(4) A correctional officer.

(5) An excise police officer.

(6) A county police reserve officer.

(7) A city police reserve officer.

(8) A conservation enforcement officer.

(9) A town marshal.

(10) A deputy town marshal.

(11) A probation officer.

(12) A state university, *college, or junior college* police officer appointed under IC 20-12-3.5.

(13) A police officer whose employer purchases coverage under section 4.5 of this chapter.

~~(13)~~ *(14)* An emergency medical services provider (as defined in IC 16-41-10-1) who is:

(A) employed by a political subdivision (as defined in IC 36-1-2-13); and

(B) not eligible for a special death benefit under IC 36-8-6-20, IC 36-8-7-26, IC 36-8-7.5-22, or IC 36-8-8-20.

~~(14)~~ *(15)* A firefighter who is employed by the fire department of a state university.

(16) A firefighter whose employer purchases coverage under section 4.5 of this chapter.

~~(15)~~ **(17)** *A member of a consolidated law enforcement department established under IC 36-3-1-5.1.*

~~(15)~~ ***(18)*** *A gaming agent of the Indiana gaming commission.*

(19) A school corporation police officer appointed under IC 20-26-16.

SECTION 4. IC 20-25-4-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 22. The governing body of a school city may establish a police department under IC 20-26-16.**

SECTION 5. IC 20-26-16 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 16. School Corporation Police Departments

Sec. 1. This chapter applies to a school corporation, including a school city (as defined in IC 20-25-2-12).

Sec. 2. The governing body of a school corporation may establish a school corporation police department under this chapter.

Sec. 3. The governing body of a school corporation shall do the following for the school corporation police department:

(1) Appoint school corporation police officers.

(2) Prescribe the duties and direct the conduct of school corporation police officers.

(3) Prescribe distinctive uniforms.

(4) Provide emergency vehicles.

(5) Limit the jurisdiction of the school corporation police officers to school property (as defined in IC 35-41-1-24.7).

Sec. 4. An individual appointed as a school corporation police officer must successfully complete at least:

(1) the pre-basic training course established under IC 5-2-1-9(f); and

(2) the minimum basic training and educational requirements adopted by the law enforcement training board under IC 5-2-1-9 as necessary for employment as a law enforcement officer.

Sec. 5. (a) Notwithstanding section 4 of this chapter and IC 5-2-1-9, an individual appointed as a school corporation police officer before July 1, 2006, must complete, not later than July 1, 2009, at least:

(1) the pre-basic training course established under IC 5-2-1-9(f); and

(2) the minimum basic training and educational requirements adopted by the law enforcement training board under IC 5-2-1-9 as necessary for employment as a law enforcement officer.

(b) As set forth in IC 5-2-1-9, an individual appointed as a school corporation police officer may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;

unless the school corporation police officer successfully completes a pre-basic training course under IC 5-2-1-9(f).

Sec. 6. A school corporation police officer appointed under this chapter:

(1) is a law enforcement officer (as defined in IC 5-2-1-2(1));

(2) must take an appropriate oath of office in a form and manner prescribed by the governing body;

(3) serves at the governing body's pleasure;

(4) performs the duties that the governing body assigns; and

(5) has full police powers when requested by other law enforcement to enforce all the penal laws of the state and possesses, with respect to those laws, the power to effect

arrests for offenses committed in the school corporation police officer's presence on school property.

Sec. 7. However, a school corporation police officer does not have the powers described in section 6 of this chapter outside school property except for an emergency in which a law enforcement officer (as defined in IC 35-41-1-17) requests assistance.

Sec. 8. A school corporation police department established before July 1, 2006, shall be considered, after June 30, 2006, a school corporation police department established under this chapter.

SECTION 6. IC 20-28-5-3, AS ADDED BY P.L.246-2005, SECTION 157, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The department shall designate:

(1) the grade point average required for each type of license; and

(2) the types of licenses to which the teachers' minimum salary laws apply, including nonrenewable one (1) year limited licenses.

(b) The department shall determine details of licensing not provided in this chapter, including requirements regarding the following:

(1) The conversion of one (1) type of license into another.

(2) The accreditation of teacher education schools and departments.

(3) The exchange and renewal of licenses.

(4) The endorsement of another state's license.

(5) The acceptance of credentials from teacher education institutions of another state.

(6) The academic and professional preparation for each type of license.

(7) The granting of permission to teach a high school subject area related to the subject area for which the teacher holds a license.

(8) The issuance of licenses on credentials.

(9) The type of license required for each school position.

(10) The size requirements for an elementary school requiring a licensed principal.

(11) Any other related matters.

The department shall establish at least one (1) system for renewing a teaching license that does not require a graduate degree.

(c) Beginning July 1, 2006, the board, before issuing an initial teaching license at any grade level to an undergraduate individual seeking an initial teaching license, shall require the applicant for a license to show evidence that the applicant meets one (1) of the following:

(1) Has successfully completed a course approved by the board in:

(A) cardiopulmonary resuscitation that includes a test demonstration on a mannequin;

(B) removing a foreign body causing an obstruction in an airway; and

(C) the Heimlich maneuver.

(2) Holds a valid certification in the procedures described in subdivision (1) issued by:

(A) the American Red Cross;

(B) the American Heart Association; or

(C) a comparable organization or institution approved by the board.

(3) Has physical limitations that make it impracticable for the applicant to complete a course or certification described in subdivision (1) or (2).

~~(c)~~ **(d)**The department shall periodically publish bulletins regarding:

(1) the details described in subsection (b);

(2) information on the types of licenses issued;

(3) the rules governing the issuance of each type of license; and

(4) other similar matters.

SECTION 7. IC 20-31-12 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 12. Additional School Improvement Criteria and Awards

Sec. 1. As used in this chapter, the following terms have the following meanings:

(1) "Graduation rate" has the meaning set forth in IC 20-26-13-6.

(2) "High achieving" means a score that is in the ninetieth percentile or above on a section of the ISTEP program test.

(3) "High performing" means placement by the state board in the exemplary or commendable performance category.

(4) "Professional development" refers to activities that conform to the requirements set forth in IC 20-20-31.

(5) "Program" refers to the school improvement award program established by section 2 of this chapter.

Sec. 2. The school improvement award program is established to reward schools that:

(1) show improvement over previous years' academic performance; or

(2) achieve or maintain a high level of academic performance;

with a graduated series of awards.

Sec. 3. (a) The department shall administer the program.

(b) In addition to money appropriated by the general assembly, the department may use gifts and grants to provide funding for awards under this chapter.

Sec. 4. In addition to an assessment of improvement under IC 20-31-8-1, a school shall have the school's progress in school improvement determined by comparing the following performance factors with the same performance factors for the school in previous years:

(1) ISTEP scores, with the scores for the following categories of students reported and compared separately:

(A) Minority groups (as defined in IC 4-13-16.5-1).

(B) Limited English proficiency.

(C) Students receiving free or reduced price lunch under the national school lunch program.

(D) High achieving.

(2) Designation as a high performing school.

(3) For high schools, graduation rates.

Sec. 5. In addition to grants and awards received under IC 20-31-7 and IC 20-31-11, a participating school's progress in school improvement may be recognized with a performance award in the amount determined by the department.

Sec. 6. An award granted under this chapter may be used for any combination of the following purposes:

(1) Grants to certificated employees (as defined in IC 20-29-2-4) for professional development.

(2) School programs to increase parental involvement.

(3) Enhanced curriculum or instruction, or both.

Sec. 7. The principal of the school receiving an award under this chapter shall determine the manner in which the award is to be used after consulting a school improvement committee established under IC 20-31-5-1.

SECTION 8. IC 20-33-11 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 11. Interrogation of a Student

Sec. 1. The definitions in IC 20-33-8 apply to this chapter.

Sec. 2. A school shall comply with section 3 or 4 of this chapter.

Sec. 3. If a student who is at least eighteen (18) years of age is interrogated by a law enforcement officer:

(1) on school property; and

(2) regarding an investigation in which the student may be a suspect;

the school principal must notify the student's parent of the interrogation not later than twelve (12) hours after the interrogation occurs.

Sec. 4. If a school has a policy that requires a student's parent to be notified by the school if the student is interrogated on school property by a law enforcement officer, the school policy must apply to all students, regardless of the age of the student.

SECTION 9. IC 34-30-14-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2.5. A teacher who:**

(1) meets the requirement of IC 20-28-5-3(c); and
(2) performs:
(A) cardiopulmonary resuscitation; or
(B) the Heimlich maneuver;
on or removes a foreign body that is obstructing an airway of another person in the course of employment as a teacher; is not liable in a civil action for damages resulting from an act or omission occurring during the performance of a function under this section unless the act or omission constitutes gross negligence or willful and wanton misconduct.

SECTION 10. [EFFECTIVE UPON PASSAGE] **(a) Although IC 20-28-5-3(c), as amended by this act, applies beginning July 1, 2006, a college or university located in Indiana may recommend to a person who has been accepted in a teacher training program before July 1, 2006, that the person should meet the requirements of IC 20-28-5-3(c), as amended by this act.**

(b) This SECTION expires June 30, 2008.

SECTION 11. [EFFECTIVE JULY 1, 2006] **(a) An individual appointed as a school corporation police officer before January 1, 2006, must begin the training and education required under IC 20-26-16-5, as added by this act, not later than January 1, 2007. However, an individual who is unable to begin the training and education not later than January 1, 2007, due to the existence of a waiting list for the training and education must begin the training and education as soon as possible after January 1, 2007.**

(b) An individual appointed as a school corporation police officer after December 31, 2005, and before July 1, 2006, must begin the training and education required under IC 20-26-16-5, as added by this act, not later than one (1) year after the individual's appointment. However, an individual who is unable to begin the training and education within one (1) year after the individual's appointment due to the existence of a waiting list for the training and education must begin the training and education as soon as possible after the expiration of the one (1) year period.

(c) Notwithstanding IC 20-26-16-5, as added by this act, an individual appointed as a school corporation police officer before July 1, 2006, who is unable to complete the training and education required under IC 20-26-16-5, as added by this act, not later than July 1, 2009, due to the existence of a waiting list for the training and education must complete the training and education as soon as possible after July 1, 2009.

(d) This SECTION expires January 1, 2010.

SECTION 12. **An emergency is declared for this act**.

(Reference is to EHB 1338 as reprinted March 2, 2006.)

T. HARRIS	LUBBERS
PORTER	BREAUX
House Conferees	Senate Conferees

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

A meeting of the Committee on Rules and Legislative Procedures was announced; the House recessed until the fall of the gavel.

RECESS

The House reconvened at 9:05 p p.m. with the Speaker in the Chair.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that 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 Senate Bill 1:

Conferees: C. Lawson replacing 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 the Senate has adopted the Conference Committee Report 1 on Engrossed House Bills 1102, 1114, 1155, 1259, and 1392.

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 1 on Engrossed Senate Bills 6, 41, 47, and 75.

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 1 on Engrossed Senate Bills 253, 258, 259, 333, and 359.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I hereby transmit Senate Enrolled Act s 266, 305, 321, and 379 for signature of the Speaker of 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 accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1029.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1261.

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 Resolutions 23, 56, and 58 and the same are 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 House Concurrent Resolution 70 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 68 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

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 1029 because it conflicts with HEA 1134-2006 without properly recognizing the existence of HEA 1134-2006, has had Engrossed House Bill 1029 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1029 be corrected as follows:

In the conference committee report for EHB1029, page 9, between lines 49 and 50, begin a new paragraph and insert:

"SECTION 11. IC 20-46-7-8, AS ADDED BY HEA 1134-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) A school corporation must file a petition requesting approval from the department of local government finance to:

(1) incur bond indebtedness;
(2) enter into a lease rental agreement; or
(3) repay from the debt service fund loans made for the purchase of school buses under IC 20-27-4-5;

not later than twenty-four (24) months after the first date of publication of notice of a preliminary determination under IC 6-1.1-20-3.1(2), unless the school corporation demonstrates that a longer period is reasonable in light of the school corporation's facts and circumstances.

(b) A school corporation must obtain approval from the department of local government finance before the school corporation may:

(1) incur the indebtedness;
(2) enter into the lease agreement; or
(3) repay the school bus purchase loan.

(c) This restriction does not apply to property taxes that a school corporation levies to pay or fund bond or lease rental indebtedness created or incurred before July 1, 1974. **In addition, this restriction does not apply to a lease agreement or a purchase agreement entered into between a school corporation and the Indiana bond bank for the lease or purchase of a school bus under IC 5-1.5-4-1(a)(5), if the lease agreement or purchase agreement conforms with the school corporation's ten (10) year school bus replacement plan approved by the department of local government finance under IC 21-2-11.5-3.1.**

(d) This section does not apply to school bus purchase loans made by a school corporation that will be repaid solely from the general fund of the school corporation.".

In the conference committee report for EHB1029, renumber all SECTIONS consecutively.

(Reference is to EHB 1029 as reprinted March 1, 2006, and as amended by the conference committee report for EHB1029.)

WHETSTONE, Chair
PELATH, R.M.M.
BUELL, Author

Report adopted.

CONFEREES AND ADVISORS APPOINTED

The Speaker announced the following changes in appointment of Representatives as conferees and advisors:

ESB 1 Conferees: Hoffman replacing Mahern

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 9:20 p.m. with the Deputy Speaker Pro Tempore, Representative T. Brown, in the Chair.

ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS

Engrossed House Bill 1008–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report does not have to be on the members' desks for any specified time requirement, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1008–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report does not have to be on the members' desks for any specified time requirement, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1008–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Representative Reske was excused from voting, pursuant to House Rule 46. Roll Call 478: yeas 51, nays 48. Report adopted.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
ESB 1–2; filed March 14, 2006, at 10:12 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 1 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 5-10.2-4-1.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.9. (a) An employee of a township who:**

(1) is a member of the public employees' retirement fund;
(2) has not attained vested status; and
(3) is terminated from employment with the township as the result of a consolidation under IC 36-3-1-6.1;

may make the election described in subsection (b).

(b) A member described in subsection (a) may elect, in the manner prescribed by the board of trustees of the public employees' retirement fund, not later than sixty (60) days after the date the member separates from township service, to receive from the public employees' retirement fund a distribution under subsection (c).

(c) This subsection applies to a member who elects under subsection (b) to receive a distribution. The member is entitled to receive a distribution that is equal to the present value, as determined by the board on the member's separation date, of the pension portion of the monthly retirement benefit computed as if the member had been:

(1) eligible for normal retirement; and
(2) at least sixty-five (65) years of age;

on the member's separation date, multiplied by a fraction. The numerator of the fraction is the number of months of creditable service earned by the member as an employee of the state before the member's separation date. The denominator of the fraction is one hundred twenty (120).

(d) To the extent permitted by the Internal Revenue Code, the distribution under subsection (c) must be made directly to any of the following designated by the terminating employee:

(1) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.
(2) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.
(3) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
(4) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b)

of the Internal Revenue Code.

(e) Creditable service used in computing a distribution under this section may not be used to compute a normal or early retirement benefit under this article.

(f) The board of trustees of the public employees' retirement fund may adopt reasonable procedures and standards to implement this section.

(g) This section applies only if the public employees' retirement fund has received from the Internal Revenue Service any approvals or rulings that the board of trustees of the public employees' retirement fund considers necessary or appropriate.

SECTION 2. IC 5-10.3-6-8.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.8. (a) This section applies when employees of a township in particular departmental, occupational, or other definable classifications are terminated from employment with the township as a result of a consolidation under IC 36-3-1-6.1.**

(b) The township executive shall request coverage under this section from the board whenever an employee of the township is terminated as described in subsection (a).

(c) The board must approve a request from the township executive under subsection (b) unless approval violates subsection (i), federal or state law, or the terms of the fund.

(d) As used in this section, "early retirement" means a member is eligible to retire with a reduced pension under IC 5-10.2-4-1, because the member:

(1) is at least fifty (50) years of age; and

(2) has at least fifteen (15) years of creditable service.

(e) As used in this section, "normal retirement" means a member is eligible to retire under IC 5-10.2-4-1, because:

(1) the member is at least sixty-five (65) years of age and has at least ten (10) years of creditable service;

(2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or

(3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five (55) years of age.

(f) The withdrawal of the employees described in subsection (a) from the fund is effective on a termination date established by the board. The board may not establish a termination date that occurs before all of the following have occurred:

(1) The township executive has requested coverage under this section and provided written notice of the following to the board:

(A) The intent of the township to terminate the employees from employment.

(B) The names of the terminated employees as of the date that the termination is to occur.

(2) The expiration of a thirty (30) day period following the filing of the notice with the board.

(3) The consolidated city complies with subsection (g).

(g) A member who is covered by subsection (f) and who, as of the date of the notice under subsection (f), is less than twenty-four (24) months from being eligible for normal or early retirement under IC 5-10.2-4-1 may elect to retire by purchasing the service credit needed for retirement under the following conditions:

(1) The consolidated city shall contribute to the fund an amount determined under IC 5-10.2-3-1.2 that is sufficient to pay the member's contributions required for the member's purchase of the service credit the member needs to retire.

(2) The maximum amount of creditable service that the consolidated city may purchase for a member under this subsection is twenty-four (24) months.

(3) The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service plus all other service for which the fund gives credit, including the creditable service purchased under this subsection.

(h) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny an employee permission to withdraw if the denial is necessary to achieve compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

SECTION 3. IC 6-1.1-18.5-10.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.4. (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 township, **a county containing a consolidated city,** or a fire protection district under IC 36-8-14.

(b) For purposes of computing the ad valorem property tax levy limit imposed on a township or a fire protection district under section 3 of this chapter, the township's, **the county's,** or the fire protection district's ad valorem property tax levy for a particular calendar year does not include that part of the levy imposed under IC 36-8-14.

SECTION 4. IC 6-1.1-18.5-21.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 21.5. The ad valorem property tax levy limits imposed by this chapter do not apply to ad valorem property taxes imposed by the consolidated fire department taxing district established in IC 36-3-1-6.4 to pay or fund the following:**

(1) Any indebtedness of a township, a fire protection territory, or an excluded city that is related to fire protection facilities or fire protection equipment and is assumed, defeased, paid, or refunded by the consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3.

(2) Any indebtedness issued by the consolidated city to pay for fire protection services, emergency services, or equipment, buildings, or land related to fire protection services or emergency medical services.

SECTION 5. IC 6-3.5-6-18.5, AS AMENDED BY P.L.234-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18.5. (a) This section applies to a county containing a consolidated city.

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

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

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

(2) Notwithstanding subdivision (1), for the calendar year beginning January 1, 1995, the distributive shares for each civil taxing unit in a county containing a consolidated city shall be not less than the following:

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

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

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

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

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

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

STEP FIVE: Determine the ratio of:

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

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

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

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

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

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

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

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

(c) Except with respect to Center Township, if a consolidated fire department is established under IC 36-3-1-6.1, beginning with the calendar year following the consolidation and for each year thereafter, a percentage of the revenues to be distributed as distributive shares during each year to a township that has consolidated its fire department shall instead be distributed to the consolidated fire department taxing district and deposited in the consolidated fire department taxing district fund. The percentage to be distributed to the consolidated fire department taxing district shall be equal to the percentage, if any, of the township's distributive shares received in the 2006 budget year that are used by the township for fire protection services.

(d) If Lawrence, Beech Grove, Southport, or Speedway consolidates its fire department into the consolidated fire department under IC 36-3-1-6.3, beginning with the calendar year following the consolidation and for each year thereafter, the monthly distributive share of county option income taxes distributed to Lawrence, Beech Grove, Southport, or Speedway, as applicable, shall be reduced by a percentage set forth in the ordinances adopted under IC 36-3-1-6.3, and those revenues shall instead be distributed to the consolidated fire department taxing district and deposited in the consolidated fire department taxing district fund.

SECTION 6. IC 8-1.5-5-32, AS ADDED BY SEA 71-2006, SECTION 1, AND HEA 1212-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. (a) This section applies to excluded cities and towns in a county containing a consolidated city.

(b) A municipality to which this section applies may withdraw from the district established by the consolidated city if the municipal legislative body adopts an ordinance withdrawing the municipality from the district. The municipal legislative body shall, at least thirty (30) days before the final vote on the ordinance, mail written notice of the meeting to the following:

(1) All owners of lots and parcels within the municipality that are subject to storm water user fees imposed in the district by the department of public works of the consolidated city.

(2) The department of public works of the consolidated city.

(c) An ordinance described in subsection (b) takes effect sixty (60) days after adoption by the municipal legislative body.

(d) In addition to the notice required by subsection (b), if a municipal legislative body adopts an ordinance under subsection (b), the municipal legislative body shall mail written notice of the withdrawal from the district to the department of public works of the consolidated city not more than thirty (30) days after the ordinance becomes effective.

(e) If on the date of a municipality's withdrawal from the district there are bonds outstanding that have been issued by the board of public works of the consolidated city, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the municipality bears to the assessed valuation of all property included in the district on the date one (1) day before the date of withdrawal, as shown in the most recent assessment for taxation before the date of withdrawal.

(f) If a municipal legislative body adopts an ordinance under subsection (b), the ~~district~~ **municipality** is entitled to receive the following:

(1) An annual lump sum payment equal to the total amount of property taxes paid and allocated to the district's flood debt service fund from all property taxpayers within the municipality, to the extent the property taxes are not necessary to pay the indebtedness owed by the municipality under subsection (e). A payment under this subdivision is required for property taxes assessed beginning on the January 1 preceding the effective date of the municipality's withdrawal from the district.

(2) The total amount of storm water user fees collected by the department of public works of the consolidated city from the lots and parcels in the municipality beginning on the January 1 preceding the effective date of the municipality's withdrawal from the district.

(g) Payments received under subsection (f):

(1) shall be deposited by the municipality in a dedicated fund; and

(2) may be used by the municipality only for purposes of storm water management in the municipality and may not be diverted, directly or indirectly, in any manner to any use other than the purposes of storm water management in the municipality.

SECTION 7. IC 8-22-3-11.6, AS ADDED BY P.L.227-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.6. (a) This section applies only to an airport authority established for a county having a consolidated city.

If:

(1) the legislative body of the consolidated city ~~and the governing body of the airport authority may adopt substantially similar ordinances providing that~~ **adopts an ordinance under IC 36-3-1-6.1 providing that:**

(A) the fire department of the airport authority is

consolidated into the fire department of the consolidated city **created by IC 36-3-1-6.1;** and ~~that~~

(B) the fire department of the consolidated city shall provide fire protection services for the airport authority; ~~If ordinances are adopted under this section,~~

and the executive of the consolidated city approves the ordinance;

(2) the legislative body of the consolidated city adopts an ordinance under IC 36-3-1-6.1 adopting the transition plan and the executive of the consolidated city approves the ordinance; and

(3) the consolidation is approved in the public question under IC 36-3-1-6.1;

the consolidation shall take effect on ~~the date agreed to by the legislative body of the consolidated city and the governing body of the airport authority in the ordinances.~~ **January 1, 2008, or a later effective date specified under IC 36-3-1-6.1.**

SECTION 8. IC 15-3-4-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 0.5. (a) This section applies to a township in a county having a consolidated city.**

(b) After December 31, 2006, the duties of a township trustee under this chapter shall be transferred to the consolidated city.

SECTION 9. IC 15-3-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) As used in this chapter, "detrimental plant" includes Canada thistle (cirsium arvense), Johnson grass, sorghum alumun (sorghum halrphense), bur cucumber (sicyos angulatus), shattercane (Sorghum bicolor [L.] Moench spp. drummondii [Steud.] deWet), and, in residential areas only, noxious weeds and rank vegetation. The term does not include agricultural crops.

(b) As used in this chapter, "fund" means:

(1) the township fund for a township in a county not having a consolidated city; or

(2) the appropriate fund of the consolidated city for a county having a consolidated city.

~~(b)~~ **(c)** As used in this chapter, "person" means an individual, an incorporated or unincorporated organization or association, a trustee or legal representative, the state, a political subdivision (as defined in IC 36-1-2-13), an agency of the state, or a political subdivision, or a group of those persons acting in concert.

(d) As used in this chapter, "township trustee" or "trustee" means:

(1) a township trustee for a township in a county not having a consolidated city; or

(2) the consolidated city for a township in a county having a consolidated city.

~~(c)~~ **(e)** A person owning or possessing real estate in Indiana shall destroy detrimental plants by cutting or mowing and, if necessary, by plowing, cultivating, or smothering, or by the use of chemicals in the bud stage of growth or earlier, to prevent those detrimental plants from maturing on any such real estate.

SECTION 10. IC 15-3-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) A township trustee who has reason to believe that detrimental plants may be on real estate may, after giving forty-eight (48) hours notice to the owner or person in possession of the property, enter the real estate to investigate.

(b) Except as provided in subsection (c), if the township trustee determines after investigating the property or by visual inspection without entering the property that a person has detrimental plants growing on real estate in ~~the~~ **a** township **that comprises all or a part of the township trustee's jurisdiction** that have not been destroyed as described in section 1 of this chapter, the ~~trustee of the township in which the real estate is located~~ **township trustee** shall notify, in writing, the owner or person in possession of the real estate to destroy the detrimental plants in a manner provided in section 1 of this chapter within five (5) days after the notice is given. If the detrimental plants are not destroyed as provided in section 1 of this chapter within five (5) days after notice is given, the trustee shall cause the detrimental plants to be destroyed in a manner seeming most practical to the trustee within three (3) additional days. The trustee may hire a person to destroy the detrimental plants. The trustee or the person employed to destroy the detrimental plants may enter upon the real estate where the detrimental plants are growing to destroy the detrimental plants, and are not civilly or criminally liable for damage to crops, livestock, or other property occurring while carrying out such work, except for gross negligence or willful or wanton destruction.

(c) If the county has established a county weed control board under IC 15-3-4.6 the township trustee may notify the county weed control board of the real estate containing detrimental plants, and the board shall either assume jurisdiction to control the detrimental plants or decline jurisdiction and refer the matter back to the township trustee. The county weed control board shall notify the township trustee of the board's decision.

(d) Notice required in subsection (a) or (b) may be given:

(1) by mail, using certified mail; or

(2) by personal service.

(e) Notice under subsection (d) is considered received by the owner or person in possession of the real estate:

(1) if sent by mail, on the earlier of:

(A) the date of signature of receipt of the mailing; or

(B) three (3) business days after the date of mailing; or

(2) if served personally, on the date of delivery.

SECTION 11. IC 15-3-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) The township trustee may pay for the chemicals, work, and labor performed in cutting or destroying detrimental plants under this chapter at a rate per hour to be fixed by the township trustee commensurate with local hourly wages.

(b) In all cases in which the infestation of the land with detrimental plants is so great and widespread as in the opinion of the trustee to render such cutting or eradication by hand methods impractical, the trustee shall engage the necessary power machinery or equipment and may pay for the work at a rate per hour fixed by the township trustee commensurate with the local hourly rate.

(c) When the work has been performed, the person doing the work shall file an itemized bill for the work ~~in the office of~~ **with** the trustee, ~~of the township,~~ and when the bill has been approved, the trustee shall pay the bill out of the ~~township~~ fund. The trustee ~~of the township~~ shall certify the cost or expense of the work, and the cost of the chemicals, adding to such bill twenty dollars ($20) per day for each day that the trustee or the trustee's agent supervises the performance of the services required under this chapter as compensation for services, with a description of the real estate on which the labor was performed.

(d) The certified statement of costs prepared under subsection (c) shall be mailed using certificate of mailing to, or personally served on, the owner or person possessing the real estate. The certified statement shall be mailed to the auditor of state for any real estate owned by the state or to the fiscal officer of another municipality (as defined in IC 5-11-1-16) for real estate owned by the municipality. The statement shall request that the person pay the cost of performing the service under subsection (c) to the township trustee.

(e) If the owner or person in possession of the property does not pay the amount set forth in the statement within ten (10) days after receiving the notice under subsection (d), the township trustee shall file a copy of the certified statement in the office of the county auditor of the county where the real estate is located **or, if the township is in a county having a consolidated city, the office of the city controller.**

(f) The auditor **or the city controller** shall place the amount claimed in the certified statement on the tax duplicate of the real estate. Except as provided in subsections (j) through (l), the amount claimed shall be collected as taxes are collected.

(g) After an amount described in subsection (f) is collected, the funds shall be deposited in the ~~trustee's township funds~~ **fund** for use at the discretion of the trustee.

(h) If there is no money available in **a** ~~the township~~ fund for that purpose, ~~the township board~~ upon finding an emergency exists:

(1) the township legislative body shall act under IC 36-6-6-14(b) or IC 36-6-6-15; **or**

(2) a consolidated city shall act under IC 36-3-4;

to borrow a sum of money sufficient to meet the emergency.

(i) The trustee, when submitting estimates to the ~~township board~~

legislative body for action, shall include in the estimates an item sufficient to cover those expenditures.

(j) This subsection applies to real estate owned by the state. The auditor of state shall issue a warrant to pay the amount set forth in the certified statement of costs for real estate owned by the state and shall charge the appropriate fund for the amount.

(k) This subsection applies to real estate owned by a municipality (as defined in IC 5-11-1-16) other than the township **or a consolidated city.** The fiscal officer of the municipality shall make the necessary appropriation from the appropriate fund to pay the township **or the consolidated city** the amount set forth in the certified statement of costs for real estate owned by the municipality.

(l) This subsection applies to real estate that is exempt from property taxation. The owner of the tax exempt real estate shall pay the amount set forth in the certified statement of costs for the tax exempt real estate. If the owner of the tax exempt real estate fails to pay the amount required by this chapter, the owner is ineligible for the property tax exemption, and the department of local government finance shall deny the property tax exemption for the real estate.

SECTION 12. IC 15-3-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. Except as provided in section 3 of this chapter, the county auditor **or, if a township is in a county having a consolidated city, the city controller,** upon receiving and filing such trustee's certificate as prescribed in this chapter, shall immediately place said amounts on the tax duplicate of the county, and such amounts shall be due at the next tax paying time, and shall be collected for the proper township, ~~or~~ townships, **or consolidated city,** the same as other state, county, or township taxes are collected, including penalties, forfeitures, and sales, and when so collected shall be paid to the proper trustee and placed in the ~~township~~ fund.

SECTION 13. IC 15-3-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. (a) A person who:

(1) knowingly allows detrimental plants to grow and mature on land owned or possessed by the person;

(2) knowing of the existence of detrimental plants on land owned or possessed by the person, fails to cut them down or eradicate them by chemicals each year, as prescribed in this chapter;

(3) having charge of or control over any highway, knowingly allows detrimental plants to grow or mature on the right-of-way of the highway, or, knowing of the existence of the detrimental plants fails to cut them down or eradicate them by chemicals, as prescribed in this chapter;

(4) having charge of or control over the right-of-way of a railroad or interurban company, knowingly allows detrimental plants to grow and mature thereon, or knowing of the existence of the detrimental plants, fails to cut them down or eradicate them by chemicals, as prescribed in this chapter; or

(5) knowingly sells Canada thistle (cirsium arvense) seed;

commits a Class C infraction. Each day this section is violated constitutes a separate infraction.

(b) All judgments collected under this section shall be paid to the trustee and placed in the ~~trustee's township funds~~ **fund** for use at the discretion of the trustee **or the consolidated city.**

SECTION 14. IC 15-3-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 7. When the annual budget is prepared, a sufficient amount shall be appropriated to enable the township ~~officials~~ **trustee** to comply with this chapter.

SECTION 15. IC 15-3-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 8. (a) The Purdue University cooperative extension service shall provide technical assistance to township trustees for the control of detrimental plants.

(b) All law enforcement agencies having jurisdiction in a township **or a consolidated city** shall assist the township trustee in carrying out the duties imposed on the trustee under this chapter.

SECTION 16. IC 15-3-4.6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. The weed control board consists of the following members to be appointed by the authorizing body:

(1) One (1) **member appointed as follows:**

(A) In a county not having a consolidated city, a township trustee of **a township in** the county.

(B) In a county having a consolidated city, the director of the department of the consolidated city that is responsible for the destruction of detrimental plants described in this chapter or the director's designee.

(2) One (1) soil and water conservation district supervisor.

(3) A representative from the agricultural community of the county.

(4) A representative from the county highway department or an appointee of the county commissioners. ~~and~~

(5) A cooperative extension service agent from the county to serve in non-voting advisory capacity.

Each board member shall be appointed for a term of four (4) years. All vacancies in the membership of the board shall be filled for the unexpired term in the same manner as initial appointments. The board shall elect a chairman and a secretary. The members of the board are not entitled to receive any compensation, but are entitled to such traveling and other expenses as may be necessary in the discharge of their duties. The board may appoint an executive director and employ necessary technical, professional, and other assistants, and it shall fix the qualifications, duties, and salaries of these employees subject to the permission of the county council. The county highway supervisor and the soil and water conservation district supervisor or employee serving the county shall serve as inspectors for the board. They shall make periodic inspections and report their findings to the board and the executive director, if any.

SECTION 17. IC 15-3-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. The Indiana department of transportation, railroads, drainage districts, township boards, **except township boards of townships in a county having a consolidated city,** public utilities, and other public and quasi-public corporations shall, between July 1 and September 15, do anything possible to restrict the growth and seed production of all Johnson grass growing on lands for which they are responsible in a municipality or township of this state.

SECTION 18. IC 15-5-9-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 0.5. As used in this chapter, "assessor" means:**

(1) for a township located in a county not having a consolidated city:

(A) the township assessor elected under IC 36-6-5-1; or

(B) the township trustee who is required by law to act as the assessor for the township the trustee serves; or

(2) for a township located in a county having a consolidated city, the controller of the consolidated city or the controller's designee.

SECTION 19. IC 15-5-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) The ~~township~~ assessor shall make a diligent census as to the number of dogs owned, harbored, or kept by any person. A person owning or harboring a dog shall pay immediately to the ~~township~~ assessor a tax for each dog owned, harbored, or kept on the same premises, whether owned by that person or some other person, as follows:

(1) Except as provided in subsection (d), for each neutered dog, two dollars ($2).

(2) For each nonneutered dog, four dollars ($4).

(3) For each additional dog, six dollars ($6).

No dog under six (6) months of age is subject to any tax under this chapter. Whoever becomes the owner or harborer of a dog after the dog census by the ~~township~~ assessor or any owner or harborer of a dog for which for any reason the assessor failed to collect the tax, shall, within thirty (30) days after becoming the owner or harborer of a dog, apply to the assessor or the assessor's designee, pay the required fee, and procure a tag for the dog.

(b) Dogs kept in kennels for breeding, boarding, or training purposes or for sale shall not be assessed an individual license fee, but the owner or keeper shall pay a kennel license fee according to the following schedule:

(1) For a major kennel, consisting of fifteen (15) or more dogs, a fee of thirty dollars ($30).

(2) For a minor kennel, consisting of less than fifteen (15) dogs,

a fee of twenty dollars ($20).

For each individual dog tag or kennel license issued under this chapter, the ~~township~~ assessor ~~(or trustee who collects the fee)~~ shall retain from the fee described in this section, an administrative fee of fifty cents ($0.50). Administrative fees collected by ~~the~~ **an** assessor **other than a township trustee** shall be deposited in the county general fund, and administrative fees collected by ~~the~~ **a township** trustee shall be deposited in the township general fund.

(c) Upon the payment of the license fee required by subsection (b), the ~~township~~ assessor shall deliver to the owner or keeper of the kennel a proper license together with a metallic tag for each dog in such kennel. The license shall be dated and numbered and shall bear the name of the county issuing it and the name and address of the owner of the kennel licensed, and a description of the breed, number, sex, and age of the dogs kept in such kennel. Any person becoming the owner of a dog kennel shall, within thirty (30) days after becoming the owner, apply to the ~~township~~ assessor, township trustee, or assessor's designee and, upon payment of the required fee, procure a license and a metallic tag for all dogs kept in the kennel.

(d) A county council may increase the tax on neutered dogs imposed under subsection (a) from two dollars ($2) to three dollars ($3).

(e) ~~A township~~ **An** assessor ~~(or a township trustee who has the duties of a township assessor)~~ may designate one (1) or more licensed veterinarians or humane societies in the assessor's township **or county, as the case may be,** to collect the dog taxes and kennel license fees and issue the licenses under this chapter. A designee may retain seventy-five cents ($0.75) as a fee for that service and remit the balance of the money collected to the ~~township trustee~~ **assessor who designated the designee** by the tenth day of each month. As used in this subsection, "humane society" includes an animal shelter, animal control center, or other animal impounding facility that has as its purpose the humane treatment of animals.

SECTION 20. IC 15-5-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) The ~~township~~ assessor shall give to each person a receipt for the money paid the assessor, which shall be designated for dog tax. The receipt shall show the person's name who owns, harbors, or keeps the dog, the amount paid, and the number, description, and kind of dogs paid for, whether male or female, and the number of each. The receipt relieves the person owning, keeping, or harboring dogs for the current year, extending one (1) year from its date. The assessor shall keep a record of persons owning dogs subject to taxation and a record of the dogs paid for. The assessor shall keep a stub record or copy of the receipts given for money paid as dog tax. The stub record shall show the amount paid, the number of dogs, both male and female, paid for, and the person's name owning the dogs paid for. At the time when the receipt is issued to the person, the assessor shall give to the person a tag, which shall be attached to the collar worn by the dog.

(b) Before July 1 each year, the ~~township~~ assessor, **except an assessor in a county having a consolidated city,** shall turn over to the township trustee all the records kept by the assessor relating to the collecting and payment of dog taxes and kennel license fees, and a copy of all receipts given by the assessor to persons having paid dog taxes and kennel license fees, and all money received by the assessor as dog taxes, and all tags left in the assessor's possession. The assessor shall assess against each person who failed to pay to the assessor the amount of any license fee owed by the person, and the amount of the license fees shall be placed upon the tax duplicate by the county auditor and collected as taxes are collected.

(c) From July 1 each year until March 1 of the next year, the ~~township trustee~~ **assessor** shall receive any license fees subject to be paid under this chapter and issue any licenses under this chapter that may be received or issued by the ~~township~~ assessor under this chapter.

SECTION 21. IC 15-5-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. **This section does not apply to a township in a county having a consolidated city or to a consolidated city.** The ~~township~~ assessor shall, before July 1 each year, report the amount collected as dog tax and kennel license fees to the county auditor. The dog taxes and kennel license fees collected by ~~the~~ **an** assessor shall be turned over by the assessor to the township trustee of the assessor's township. The county auditor shall make a record of the same, and charge the amount stated in the report against the township trustee as receipts from the county dog fund.

SECTION 22. IC 15-5-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. (a) Each ~~township~~ assessor shall perform the duties imposed by this chapter. If a dog owner has failed to turn in a dog for taxation purposes, the assessor shall notify the owner that the assessor is listing the unpaid taxes within a period of ten (10) days, at which time the person will be assessed double the amount of taxes provided by this chapter unless the person owning the dog appears voluntarily within the ten (10) days and:

(1) proves to the satisfaction of the assessor that the person owned no such dog at the time the census was made; or

(2) makes an affidavit to be kept on file by the assessor to the effect that the failure to report a dog for taxation was not intentional and was not purposely omitted for the purpose of avoiding payment of taxes.

(b) Each assessor shall keep a complete list of all dogs subject to the tax under this chapter together with the names of their owners on record in the assessor's office at all times and available to the public. If any person shall acquire, own, harbor, or keep any dog after the assessor has completed the census, the person shall report the dog to and pay to the assessor the amount of dog tax as provided in this chapter and receive a receipt and tag for the payment. The receipt and tag exempts the person from further payment of dog tax on dogs described in the receipt for one (1) year from the date of the receipt.

SECTION 23. IC 15-5-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. ~~A township~~ **An** assessor **or** assessor's designee ~~or township trustee~~ who:

(1) fails to perform the duties imposed by this chapter; or

(2) fails to make a complete report within the time specified in this chapter;

commits a Class C infraction.

SECTION 24. IC 15-5-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. Every person liable to taxation in any township and residing in the township when listed for taxation shall make and subscribe to an oath to the ~~township~~ assessor in which the person states the number of dogs neutered or unneutered over the age of six (6) months and owned or harbored by the person.

SECTION 25. IC 15-5-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 8. (a) All money derived by the taxing of dogs under this chapter shall constitute a fund known as the township dog fund **or, in the case of a township located in a county having a consolidated city, the county dog fund** that the township trustee **or, in the case of a township located in a county having a consolidated city, the controller of the consolidated city,** shall use in the manner provided in this chapter for the payment of the following:

(1) Damages, less insurance proceeds, sustained by owners of the following stock, fowl, or game killed, maimed, or damaged by dogs:

(A) Sheep.
(B) Cattle.
(C) Horses.
(D) Swine.
(E) Goats.
(F) Mules.
(G) Chickens.
(H) Geese.
(I) Turkeys.
(J) Ducks.
(K) Guineas.
(L) Tame rabbits.
(M) Game birds and game animals held in captivity under authority of a game breeder's license issued by the department of natural resources.
(N) Bison.
(O) Farm raised cervidae.
(P) Ratitae.

(2) The expense of taking the Pasteur treatment for hydrophobia incurred by any person bitten by or exposed to a dog known to

have hydrophobia. ~~within any township of Indiana.~~

(b) Any person requiring the treatment described in subsection (a)(2) may select the person's own physician.

(c) No damages shall be assessed or paid under this chapter on sheep except where individual damage exists or is shown.

(d) This subsection applies to a county whose legislative body has acted under this subsection. A county legislative body may designate by ordinance one (1) humane society located in that county to receive fifty cents ($0.50) from each dog tax payment collected under this chapter.

(e) A humane society designated under subsection (d) shall use the funds disbursed to the society to maintain an animal shelter.

(f) If a county does not designate a humane society to receive payments under subsection (d), those amounts remain in the township dog fund **or, in the case of a county having a consolidated city, the county dog fund.**

SECTION 26. IC 15-5-9-9.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 9.1. (a) In order to qualify for payment for damages by a township trustee **or, in the case of a township located in a county having a consolidated city, the controller of the consolidated city** under this chapter, the owner of stock, fowl, or game listed in section 8(a)(1) of this chapter killed, maimed, or damaged by dogs shall do the following:

(1) Not more than seventy-two (72) hours after the time of the loss, notify one (1) of the following having jurisdiction in the location where the loss occurred:

(A) A law enforcement officer.

(B) An officer of a county or municipal animal control center, shelter, or similar impounding facility.

(2) Within twenty (20) days from the time of the loss, report the loss to the trustee ~~of his township~~ **of the owner's township or, in a township located in a county having a consolidated city, to the controller of the consolidated city** as follows:

(A) Under oath, the owner shall state:

(i) the number, age, and value of the stock, fowl, or game; and

(ii) the damages, less any insurance proceeds, sustained.

(B) In an affidavit, the owner must be joined by two (2) disinterested and reputable freeholders residing in the township in which the stock, fowl, or game were killed, maimed, or damaged. The affidavit must state that the freeholders are:

(i) disinterested; and

(ii) not related by blood or marriage to the claimant.

(C) No appraisement may exceed the actual cash value of the stock, fowl, or game. As it applies to ratitae, cash value is no more than the slaughter value.

(D) The owner shall provide verification of the loss by an officer under subdivision (1).

(E) No loss shall be paid for property owned by a claimant on the last property tax assessment date if the property was not reported by the owner for assessment purposes at that time.

(b) An officer who receives notice under subsection (a)(1) shall visit the scene of the loss, verify the loss in writing, and mark the animal so that the animal can support only one (1) claim under this chapter.

SECTION 27. IC 15-5-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 10. (a) The ~~trustees~~ **township trustee or the controller of the consolidated city** shall register and pay damages for all losses in the order in which the losses are reported.

(b) A person may not receive payment from the trustee **or the controller of the consolidated city** for stock, fowl, or game listed in section 8(a)(1) of this chapter:

(1) that are killed, maimed, or damaged by any dog or dogs owned or harbored by that person;

(2) for which the person received from another person an amount equal to the actual damages; or

(3) for which the owner has not complied with section 9.1 of this chapter.

(c) When rabies shall develop in any stock, fowl, or game listed in section 8(a)(1) of this chapter, however contracted, and when the existence of such disease shall be proven by:

(1) laboratory diagnosis, made in the laboratory of the state department of health, or some other laboratory maintained by state, county, or municipal funds; or

(2) affidavit of an attending legally qualified graduate veterinarian;

the owner of such animal with rabies shall be entitled to recover in the same amount and manner as provided in sections 8 and 9.1 of this chapter.

(d) Whenever any dog not accompanied by the dog's owner or owner's agent is suspected of having rabies and found roaming at large, and the dog dies or is destroyed on said account, the **township** trustee **or controller of the consolidated city** shall do the following:

(1) Remove or have removed the head of the dog.

(2) Pay from the township dog fund **or, in the case of a township located in a county having a consolidated city, the county dog fund,** the following:

(A) A reasonable fee for the removal of the dog's head.

(B) All charges for transporting the head to a laboratory maintained by state, county, or municipal funds. If no money is available in the **appropriate** dog fund, ~~of the township,~~ then such necessary fees shall be paid out of the township **general** fund **or, in the case of a township located in a county having a consolidated city, the county general fund,** without appropriations having been made.

(e) On the first Monday of March of each year, the township shall transfer the following to the county treasurer:

(1) Any funds in a township dog fund designated for a humane society under section 8 of this chapter.

(2) Any amount in a township dog fund exceeding three hundred dollars ($300) over and above orders drawn on the fund.

(f) The funds transferred to the county treasurer under subsection (e) shall be deposited in the county dog fund. On the second Monday in March of each year, the money in the county dog fund shall be distributed as follows:

(1) **Except for a township located in a county having a consolidated city,** among the townships of the county in which the orders drawn against the dog fund exceed the money on hand.

(2) To a humane society designated under section 8 of this chapter.

(g) If the funds in the county dog fund, after any distribution to a designated humane society, are insufficient to pay for all stock, fowl, or game listed in section 8(a)(1) of this chapter that are killed, maimed, or damaged by dogs ~~of all the townships~~ in the county, the distribution shall be made, **except in a township located in a county having a consolidated city,** in the ratio of the orders drawn against the dog fund of the townships and unpaid and unprovided for. The ratio shall be obtained from the report of the trustees of the townships made to the auditor of the county.

(h) The report under subsection (g) shall be made by each township trustee of the county upon the first Monday of March of each year and must show the following:

(1) All receipts into the dog fund of the township.

(2) All orders drawn against the township fund in the order in which the orders were drawn.

(i) If the funds in the dog fund of any township and the share of the county dog fund distributed to such township during any year **or, in the case of a township located in a county having a consolidated city, the county dog fund,** are insufficient to pay for all stock, fowl, and game listed in section 8(a)(1) of this chapter that are killed, maimed, or damaged by dogs in such township **or county, as the case may be,** during such year, any such losses registered and any orders drawn which are unpaid and unprovided for shall be paid out of the state dog account.

(j) If upon the first Monday in May of any year there is a surplus left of the county dog fund after provisions have been made for the payment of all stock, fowl, and game listed in section 8(a)(1) of this chapter that are killed, maimed, or damaged by dogs of all the townships of the county and the distribution to any designated humane society, the surplus shall be:

(1) paid to the auditor of state; and

(2) placed in a separate account of the general fund of the state treasury known as the state dog account.

SECTION 28. IC 15-5-9-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 11. On or before the first day of May of each year, the trustee of each township shall make a report in writing, to the county auditor, of the amount of all claims in ~~his~~ **the trustee's** township for livestock, fowls, or game which have been destroyed or damaged by dogs, and which claims have been filed before March 9, 1937, or which may be filed thereafter but have not been paid for lack of funds. On or before the second Monday in May of each year, the auditor of each county, **or, in a county having a consolidated city, the controller of the consolidated city,** shall make a report, in writing, to the auditor of state, in such form as the auditor of state shall prescribe, of the amount of all such claims in ~~his~~ **the** county which have been filed and which have not been paid for lack of funds, and on or before the second Monday in July, the auditor of state shall issue ~~his~~ **the auditor's** warrant, payable to the auditor of each such county **or, in a county having a consolidated city, the controller of the consolidated city,** for the amount of the unpaid claims. The warrant shall be drawn on the state dog account. Upon the receipt of the money, the auditor of the county **or, in a county having a consolidated city, the controller of the consolidated city,** shall distribute the funds to the respective townships of ~~his~~ **the** county entitled thereto **or, in the case of a county having a consolidated city, to the appropriate fund of the consolidated city,** and the trustee of the township **or controller of a consolidated city** shall pay all unpaid claims of ~~his~~ **the** township **or county** in the order in which the claims were filed. If in any year there is not sufficient money in the state dog account to pay all of the claims, the auditor of state shall make such distribution, as near as practicable, in proportion to the aggregate value of livestock, fowls, or game for the destruction of which or the damage to which claims have been filed in the respective counties, and the county auditor, **except in a county having a consolidated city,** shall distribute the money so received to the several townships in the same proportion. All money in excess of fifty thousand dollars ($50,000) remaining in the state dog account, after such annual distribution shall have been made as hereinbefore provided, shall be distributed by the auditor of state in the manner following:

~~(a)~~ **(1)** One-half (½) of such excess or one hundred thousand dollars ($100,000) of such excess, whichever sum is the lesser, shall be distributed to Purdue University for the School of Veterinary Science and Medicine to be used solely for canine disease research.

~~(b)~~ **(2)** The balance remaining of such excess, after the distribution to Purdue University is made as hereinbefore provided, shall be distributed to the general fund of each county in direct proportion to the total amount of money paid into the dog account on the second Monday in May by the county prior to the distribution.

Of the funds returned to the respective counties the county may, with the approval of the county commissioners and the county council, construct dog pounds within said counties.

SECTION 29. IC 15-5-9-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 12. (a) At the time when the dog kennel license fee is paid to the ~~township~~ assessor, the assessor, at the time when the assessor issues a receipt, shall likewise furnish to the person a metal tag. The metal tag furnished shall be attached securely to the collar of the dog for which the license fee has been paid, and the collar, with the tag attached, shall be worn continuously by the dog.

(b) All license tags shall be of uniform design or color for any one (1) year, but the same color or shape shall not be used for any two (2) consecutive years. All tags shall be designed by the auditor of state, shall be paid for out of the state dog account, and shall be manufactured at the state prison in the same manner as motor vehicle registration plates. Each tag shall have a distinct number, and the number of the tag shall appear on the receipt issued to the owner of the dog.

(c) If any dog tag is lost, it shall be replaced without cost by the assessor upon application by the owner of the dog and upon the production of the receipt and a sworn statement of the facts regarding the loss of the tag. No license tag is transferable to another dog.

SECTION 30. IC 32-26-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) The trustee of each township, the county highway superintendent, the Indiana department of transportation, or other officer in control of the maintenance of a highway shall between January 1 and April 1 of each year, examine all hedges, live fences, natural growths along highways, and other obstructions described in section 1 of this chapter in their respective jurisdictions. **However, in a county having a consolidated city, the duties and obligations of a township trustee under this chapter are the responsibility of the consolidated city.** If there are hedges, live fences, other growths, or obstructions along the highways that have not been cut, trimmed down, and maintained in accordance with this chapter, the owner shall be given written notice to cut or trim the hedge or live fence and to burn the brush trimmed from the hedge or live fence and remove any other obstructions or growths.

(b) The notice required under subsection (a) must be served by reading the notice to the owner or by leaving a copy of the notice at the owner's usual place of residence.

(c) If the owner is not a resident of the township, county, or state where the hedge, live fence, or other obstructions or growth is located, the notice shall be served upon the owner's agent or tenant residing in the township, **county, or state.** If an agent or a tenant of the owner does not reside in the township, the notice shall be served by mailing a copy of the notice to the owner, directed to the owner's last known post office address.

(d) If the owner, agents, or tenants do not proceed to cut and trim the fences and burn the brush trimmed from the fences or remove any obstructions or growths within ten (10) days after notice is served, the township trustee, **consolidated city,** county highway superintendent, or Indiana department of transportation shall immediately:

(1) cause the fences to be cut and trimmed or obstructions or growths removed in accordance with this chapter; and

(2) burn the brush trimmed from the fences.

All expenses incurred under this subsection shall be assessed against and become a lien upon the land in the same manner as road taxes.

(e) The township trustee, **consolidated city,** county highway superintendent, or Indiana department of transportation having charge of the work performed under subsection (d) shall prepare an itemized statement of the total cost of the work of removing the obstructions or growths and shall sign and certify the statement to the county auditor of the county in which the land is located. The county auditor shall place the statement on the tax duplicates. The county treasurer shall collect the costs entered on the duplicates at the same time and in the same manner as road taxes are collected. The treasurer may not issue a receipt for road taxes unless the costs entered on the duplicates are paid in full at the same time the road taxes are paid. If the costs are not paid when due, the costs shall become delinquent, bear the same interest, be subject to the same penalties, and be collected at the same time and in the same manner as other unpaid and delinquent taxes.

SECTION 31. IC 32-26-9-0.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 0.6. As used in this chapter, "township" means:**

(1) a township in a county not having a consolidated city; or

(2) the consolidated city for a township located in a county having a consolidated city.

SECTION 32. IC 32-26-9-0.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: **Sec. 0.7. As used in this chapter, "township trustee" or "trustee" means:**

(1) a township trustee for a township in a county not having a consolidated city; or

(2) the consolidated city for a township in a county having a consolidated city.

SECTION 33. IC 32-26-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) A partition fence shall be built, rebuilt, and kept in repair at the cost of the property owners whose properties are enclosed or separated by the fences proportionately according to the number of rods or proportion of the fence the property owner owns along the line of the fence,

whether the property owner's title is a fee simple or a life estate.

(b) If a property owner fails or refuses to compensate for building, rebuilding, or repairing the property owner's portion of a partition fence, another property owner who is interested in the fence, after having built, rebuilt, or repaired the property owner's portion of the fence, shall give to the defaulting property owner or the defaulting property owner's agent or tenant twenty (20) days notice to build, rebuild, or repair the defaulting property owner's portion of the fence. If the defaulting property owner or the defaulting property owner's agent or tenant fails to build, rebuild, or repair the fence within twenty (20) days, the complaining property owner shall notify the township trustee of the township in which the properties are located of the default.

(c) This subsection applies if the fence sought to be established, rebuilt, or repaired is on a township line. Unless disqualified under subsection (h), the complaining property owner shall notify the trustee of the township in which the property of the complaining property owner is located of the default under subsection (b), and the trustee has jurisdiction in the matter.

(d) The township trustee who receives a complaint under this section shall:

(1) estimate the costs for building, rebuilding, or repairing the partition fence; and

(2) within a reasonable time after receiving the complaint, make out a statement and notify the defaulting property owner of the probable cost of building, rebuilding, or repairing the fence.

If twenty (20) days after receiving a notice under this subsection the defaulting property owner has not built, rebuilt, or repaired the fence, the trustee shall build or repair the fence. The trustee may use only the materials for the fences that are most commonly used by the farmers of the community.

(e) If the trustee ~~of a township~~ is disqualified to act under subsection (h), the trustee of an adjoining township who resides nearest to where the fence is located shall act on the complaint upon receiving a notice by a property owner who is interested in the fence.

(f) A lawful partition fence is any one (1) of the following that is sufficiently tight and strong to hold cattle, hogs, horses, mules, and sheep:

(1) A straight board and wire fence, a straight wire fence, a straight board fence, or a picket fence four (4) feet high.

(2) A straight rail fence four and one-half (4 ½) feet high.

(3) A worm rail fence five (5) feet high.

(g) This subsection applies if a ditch or creek crosses the division line between two (2) property owners, causing additional expense in the maintenance of the part over the stream. If the property owners cannot agree upon the proportionate share of each property owner, the township trustee shall appoint three (3) disinterested citizens who shall apportion the partition fence to be built by each property owner.

(h) If a township trustee is:

(1) related to any of the interested property owners; or

(2) an interested property owner;

the ~~trustee of any other township who resides nearest to where the fence is located shall~~ **township shall appoint another official to** act under this chapter.

(i) This subsection applies if a ditch or creek forms, covers, or marks the dividing line or a part of the dividing line between the properties of separate and different property owners so that partition fences required under this chapter cannot be built and maintained on the dividing line. The partition fences shall be built and maintained under this chapter as near to the boundary line as is practical, and each property owner shall build a separate partition fence on the property owner's property and maintain the fence at the property owner's cost.

(j) This subsection applies where a partition fence required under this chapter crosses a ditch or creek and it is impracticable to construct or maintain that portion of the fence that crosses the ditch or creek as a stationary fence. Instead of the portion of the fence that would cross the ditch or creek, there shall be constructed, as a part of the partition fence, floodgates or other similar structures that are sufficiently high, tight, and strong to turn hogs, sheep, cattle, mules, and horses or other domestic animals. The floodgates or other similar structures shall be constructed to swing up in times of high water and to connect continuously with the partition fences.

(k) This subsection applies if the building and maintenance of the floodgates or other similar structure required under subsection (j) causes additional expenses and the property owners cannot agree upon the character of floodgates or other similar structure, or upon the proportionate share of the cost to be borne by each property owner. The township trustee, upon notice in writing from either property owner of a disagreement and the nature of the disagreement, shall appoint three (3) disinterested citizens of the township who shall determine the kind of structure and apportion the cost of the floodgate or other structure between the property owners, taking into consideration the parts of the fence being maintained by each property owner.

(l) The determination of a majority of the arbitrators of any matter or matters submitted to them under this section is final and binding on each property owner. The compensation of the arbitrators is two dollars ($2) each, which shall be paid by the property owners in the proportion each property owner is ordered to bear the expense of a gate or structure.

(m) This subsection applies if either or both of the property owners fail to construct or compensate for constructing the structure determined upon by the arbitrators in the proportion determined within thirty (30) days after the determination. The township trustee shall proceed at once to construct the gate or structure and collect the cost of the gate or structure, including the compensation of the arbitrators, from the defaulting property owner in the same manner as is provided for ordinary partition fences. The floodgate or other structure shall be repaired, rebuilt, or replaced according to the determination of the arbitrators.

SECTION 34. IC 34-30-2-58 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 58. IC 15-3-4-2 (Concerning township trustees, **a consolidated city,** or persons hired by them for the removal of detrimental plants upon another person's real property).

SECTION 35. IC 36-2-9.5-10, AS ADDED BY P.L.227-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) The county auditor shall examine and settle all accounts and demands that are:

(1) chargeable against the county or city; and

(2) not otherwise provided for by statute.

(b) The county auditor shall issue warrants on the county or city treasury for:

(1) sums of money settled and allowed by the county auditor;

(2) sums of money settled and allowed by another official; or

(3) settlements and allowances fixed by statute;

and shall make the warrants payable to the person entitled to payment. The warrants shall be numbered progressively, and the ~~controller~~ **county auditor** shall record the number, date, amount, payee, and purpose of issue of each warrant at the time of issuance.

SECTION 36. IC 36-2-9.5-13, AS ADDED BY P.L.227-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) The county auditor is responsible for the issuance of warrants for payments from county and city funds. **The signature of the county auditor may not be signed on, imprinted on, or affixed to any warrant for the payment of county or city funds without the approval of the county auditor.**

(b) The county auditor is responsible for:

(1) accounting;

(2) payroll, accounts payable, and accounts receivable;

(3) revenue and tax distributions; and

(4) maintenance of property records;

for all city and county departments, offices, and agencies.

(c) The county auditor may take actions necessary to carry out the functions under subsection (b) without the approval of the controller of the consolidated city.

SECTION 37. IC 36-2-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. (a) The county assessor shall perform the functions assigned by statute to the county assessor, including the following:

(1) Countywide equalization.

(2) Selection and maintenance of a countywide computer system.

(3) Certification of gross assessments to the county auditor.

(4) Discovery of omitted property.

(b) The county assessor shall perform the functions of an assessing official under IC 36-6-5-2 in a township with a township assessor-trustee if the township assessor-trustee:

(1) fails to make a report that is required by law;

(2) fails to deliver a property tax record to the appropriate officer or board;

(3) fails to deliver an assessment to the county assessor; or

(4) fails to perform any other assessing duty as required by statute or rule of the department of local government finance;

within the time period prescribed by statute or rule of the department or within a later time that is necessitated by reason of another official failing to perform the official's functions in a timely manner.

(c) A township with a township trustee-assessor may, with the consent of the township board, enter into an agreement with:

(1) the county assessor; or

(2) another township assessor in the county;

to perform any of the functions of an assessing official. A township trustee-assessor may not contract for the performance of any function for a period of time that extends beyond the completion of the township trustee-assessor's term of office.

(d) In a county having a consolidated city, the controller of the consolidated city or the controller's designee shall administer the dog tax and township dog fund as prescribed by IC 15-5-9.

SECTION 38. IC 36-3-1-6.1, AS AMENDED BY HEA 1040-2006, SECTION 560, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.1. (a) ~~This section applies only in a county containing a consolidated city. If the requirements of subsection (g) are satisfied,~~ **The legislative body of the consolidated city may adopt an ordinance approved by the mayor of the consolidated city to consolidate** the fire departments of the following ~~are consolidated~~ into the fire department of a consolidated city (referred to as "the consolidated fire department"):

(1) A township ~~for which the consolidation is approved by the township legislative body and trustee and the legislative body and mayor of the~~ **located in a county having a** consolidated city.

(2) Any fire protection territory established under IC 36-8-19 that is located in a ~~township described in subdivision (1).~~ **county having a consolidated city.**

(3) The territory in which an airport authority established for a consolidated city under IC 8-22-3 may provide fire protection services.

(b) The legislative body of the consolidated city may not adopt an ordinance under subsection (a) unless the legislative body first:

(1) holds a public hearing on the proposed consolidation; and

(2) determines that:

(A) reasonable and adequate fire protection can be provided through the consolidation; and

(B) the consolidation is in the public interest.

(c) If the requirements of subsections (a) and (b) are satisfied, the following shall be submitted to the voters in a public question:

(1) The question of whether the fire departments shall be consolidated.

(2) The following two (2) options regarding the governance structure that shall apply if the fire departments are consolidated:

(A) One (1) option must provide for a permanent metropolitan board of fire commissioners with the powers and duties specified in subsection (h) concerning the consolidated fire department.

(B) The other option must provide for the consolidated fire department to be under the control and authority of the mayor as provided by law. The choice of which option shall be implemented shall be determined by the voters in a public question under subsection (g).

(d) If the requirements of subsections (a) and (b) are satisfied, the mayor of the consolidated city shall prepare and disseminate to the citizens a proposed transition plan providing for a consolidated fire department to be under the control and authority of the mayor as provided by law.

(e) If the requirements of subsections (a) and (b) are satisfied, a metropolitan board of fire commissioners is established. The board consists of the following members:

(1) The mayor of the consolidated city, who shall serve as the board's chairperson.

(2) The nine (9) township trustees in the county containing a consolidated city. If a member serving under this subdivision ceases to be a township trustee, the new township trustee becomes a member of the board in place of the previous township trustee.

(3) Two (2) members of the legislative body of the consolidated city, who must be from different political parties, appointed by the president of the legislative body of the consolidated city.

At the board's first meeting, the members of the board shall elect a vice chairperson from among the township trustees serving on the board. Meetings of the board shall be called by the chairperson or by the vice chairperson and any two (2) other members. An affirmative vote of a majority of the members appointed to the board is required for the board to take final action. The members of the board may not receive a salary or per diem for participation on the board. The board shall prepare and disseminate a proposed transition plan providing that the board shall be a permanent body and have the powers and duties specified in subsection (h). The legislative body of the consolidated city shall provide personnel to staff the board. The legislative body shall appropriate sufficient funds to pay for attorneys hired or retained by the board. The board shall choose the attorneys that are hired or retained by the board. If the voters do not vote in favor of the board in the public question under subsection (g), the board expires June 1, 2007.

(f) If:

(1) before August 1, 2006, the legislative body adopts an ordinance under subsection (a);

(2) the mayor of the consolidated city approves the ordinance adopted under subsection (a); and

(3) the public question under subsection (g) on whether the fire department consolidation shall occur is approved;

the fire department consolidation becomes effective on January 1, 2008. However, notwithstanding any other statute, if the legislative body does not adopt an ordinance, approved by the mayor of the consolidated city, under subsection (a) before August 1, 2006, the effective date of the consolidation is not January 1, 2008, but is instead the date specified by the legislative body in the ordinance adopting the transition plan.

(g) If an ordinance providing for consolidation is adopted by the legislative body and approved by the mayor, the following public questions shall be placed on the ballot:

(1) A public question regarding approval of the fire department consolidation shall be placed on the ballot in the county (except in an excluded city) at the May 2007 primary election. The county election board shall specify the language of the public question. If the majority of the voters voting on the public question approve the fire department consolidation, the fire department consolidation becomes effective on January 1, 2008, or the later date specified by the legislative body. If a majority of the voters voting on the public question do not approve the fire department consolidation, the requirements of this subsection are not satisfied and none of the fire departments of the townships in the county or any fire protection territory in those townships may be consolidated into the fire department of the consolidated city. The county election board and the circuit court clerk of the county shall provide for and conduct the public question under this section. The public question under this subsection must be certified in accordance with IC 3-10-9-3 and shall be placed on the ballot in accordance with IC 3-10-9.

(2) A public question regarding which of the two (2) options described in subsections (c)(2) shall be implemented if the fire department consolidation is approved under subdivision (1) shall also be placed on the ballot in the county (except in an excluded city) at the May 2007 primary election. The county election board shall specify the language of the public question. If the majority of the voters voting on the

public question approve the option described in subsection (c)(2)(A), the board shall be a permanent board with the powers specified in subsection (h). If the majority of the voters voting on the public question approve the option described in subsection (c)(2)(B), the consolidated fire department shall instead be under the control and authority of the mayor as provided by law. The county election board and the circuit court clerk of the county shall provide for and conduct the public question under this section. The public question under this subsection must be certified in accordance with IC 3-10-9-3 and shall be placed on the ballot in accordance with IC 3-10-9.

(h) Subject to approval of the voters in the public question under subsection (g)(2) if the fire departments are consolidated, the board established under subsection (e) and the executive of the consolidated city have the following duties and responsibilities:

(1) The board:

(A) must approve any station closings in areas formerly served by township fire departments consolidated under this section; and

(B) shall approve a plan to integrate all merit positions and safety board positions into the consolidated fire department.

The board is not authorized to approve station closings within the fire special service district. The mayor of the consolidated city must approve all station closings within the fire special service district.

(2) The board shall oversee all assets of the consolidated fire department and reallocation of assets.

(3) The board must approve all equipment purchases for the consolidated fire department and all facility purchases for the consolidated fire department.

(4) The board shall nominate three (3) candidates for fire chief of the consolidated fire department. The mayor shall select the fire chief of the consolidated fire department from the nominated candidates.

(5) The board shall permanently have the authority to appoint one (1) member to the merit commission of the consolidated fire department. A member of the merit commission appointed under this subdivision shall replace a member appointed by the mayor of the consolidated city. Each member of the merit commission appointed under this subdivision shall serve a four (4) year term. Notwithstanding any other law, the mayor shall designate which of the mayor's appointees to the merit board is removed from the merit board and replaced by the initial member appointed under this subdivision.

(6) The controller of the consolidated city shall prepare a budget proposal for the consolidated fire department. After review and any modifications by the board, the controller shall submit the budget proposal to the legislative body of the consolidated city for approval.

(7) The board shall provide advice and make recommendations to the chief of the consolidated fire department regarding the operation of the consolidated fire department and the provision of emergency medical services.

(8) The board shall review labor agreements assumed or to be assumed by the consolidated city and make recommendations concerning labor agreements needed to integrate firefighters from all townships into the consolidated fire department.

(9) The board is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3.

(10) The board shall meet at least once each month.

(11) The board shall nominate ranking officers who shall be in charge of territory formerly served by township fire departments consolidated under this section.

(12) The board shall review and approve the annual capital plan of the consolidated fire department. However, the annual capital plan of the consolidated fire department is subject to approval of the legislative body of the consolidated city as part of the consolidated city's budget.

(13) The board shall study ISO ratings throughout the county.

(14) The legislative body of the consolidated city shall include funding in the consolidated city's budget that shall be used by the board to coordinate community education programs.

If the voters under subsection (c)(1) vote in favor of the board, the board is a permanent body and shall continue to exercise its powers and carry out its duties under this subsection.

(i) If voters in the public question under subsection (g)(2) approve a consolidated fire department under the control and authority of the mayor, the consolidated fire department shall be under the control and authority of the mayor as provided by law.

~~(b) If the requirements of subsection (g) are satisfied,~~ **(j) Except as provided in section 6.3 of this chapter, if a consolidated fire department is established under this section,** the consolidated fire department shall provide fire protection services within ~~an entity described in subsection (a)(1) or (a)(2) in which the requirements of subsection (g) are satisfied~~ **the consolidated fire department taxing district beginning** on ~~the date agreed to in the resolution of the township legislative body and the ordinance of the legislative body of the consolidated city.~~ **January 1, 2008, or the date specified under subsection (e) by the legislative body of the consolidated city.**

~~(c)~~ **(k) Except as otherwise provided,** if the ~~requirements of subsection (g) are satisfied and the~~ fire ~~department~~ **departments** of ~~an entity~~ **the entities** listed in subsection (a) ~~is~~ **are** consolidated into the fire department of the consolidated city, all of the property, equipment, records, rights, and contracts of the ~~department~~ **departments** consolidated into the fire department of the consolidated city are:

(1) transferred to; or

(2) assumed by;

the consolidated city on ~~the effective date of the consolidation. However, real property other than real property used as a fire station may be transferred only on terms mutually agreed to by the legislative body and mayor of the consolidated city and the trustee and legislative body of the township in which that real property is located.~~ **January 1, 2008, or the date specified under subsection (e) by the legislative body of the consolidated city. In the case of a building that was partially funded from sources other than taxes imposed for fire protection purposes, only that part of the building that was funded from taxes imposed for fire protection purposes and that is used by the township for fire protection purposes shall be transferred to the consolidated city. Any balance in a township's cumulative building and equipment fund for fire protection and related services established under IC 36-8-14 before January 1, 2008, shall not be transferred to the consolidated city but shall be transferred first to a dedicated township fund and used to pay pension obligations under the 1937 firefighters' pension fund, if the township has any unfunded liability for pension obligations for township firefighters under the 1937 firefighters' pension fund, and if any balance remains after that transfer for pension obligations, the remaining balance shall be transferred to any other cumulative fund or rainy day fund established by the township before January 1, 2008. The balances in any funds established by a township for any purpose are not transferred to the consolidated city. The Emergency Services Education Center in Wayne Township shall remain the property of Wayne Township. The Emergency Services Education Center and any debt related to the Emergency Services Education Center shall not be transferred to the consolidated city.**

~~(d)~~ **(l)** If ~~the requirements of subsection (g) are satisfied and~~ the fire ~~department~~ **departments** of ~~an entity~~ **the entities** listed in subsection (a) ~~is~~ **are** consolidated into the fire department of the consolidated city, the employees of the fire department consolidated into the fire department of the consolidated city cease employment with the department of the entity listed in subsection (a) and become employees of the consolidated fire department on ~~the effective date of the consolidation.~~ **January 1, 2008, or a later effective date of the consolidation specified by the legislative body of the consolidated city under subsection (e). However, an employee may not become an employee of the consolidated fire department under this subsection unless the employee has completed a**

criminal history background check. The consolidated city shall assume all agreements with labor organizations that:

(1) are in effect on the effective date of the consolidation; and

(2) apply to employees of the department consolidated into the fire department of the consolidated city who become employees of the consolidated fire department.

~~(e)~~ **(m)** If ~~the requirements of subsection (g) are satisfied and~~ the fire ~~department~~ **departments** of ~~an entity~~ **the entities** listed in subsection (a) ~~is~~ **are** consolidated into the fire department of a consolidated city, the indebtedness related to fire protection ~~services~~ **facilities or fire protection equipment** incurred before the effective date of the consolidation by the entity or a building, holding, or leasing corporation on behalf of the entity whose fire department is consolidated into the consolidated fire department under subsection (a) shall ~~remain the debt of the entity and does not become and may not~~ be assumed, **defeased, paid, or refunded** by the consolidated city **and may be paid from property taxes imposed by the consolidated fire department taxing district. Indebtedness related to fire protection operations (excluding indebtedness related to fire protection facilities or fire protection equipment) that is incurred before the effective date of the consolidation by the entity or a building, holding, or leasing corporation on behalf of the entity whose fire department is consolidated into the consolidated fire department under subsection (a) shall remain the debt of the entity and does not become and may not be assumed by the consolidated city. Notwithstanding any other law, to assume, defease, pay, or refund all or a part of the indebtedness related to fire protection facilities or fire protection equipment, the consolidated city is not required to comply with any other statutory procedures or approvals that apply when a unit incurs indebtedness. However, the consolidated city may not assume all or any part of the indebtedness that will cause the consolidated city to exceed the limitations on the amount of indebtedness that the consolidated city may incur. The rights of the trustee and the bondholders with respect to any:**

(1) bonds or other indebtedness; or

(2) bond resolution, trust agreement, or indenture, security agreement, purchase agreement, or other undertaking with respect to indebtedness;

remain the same, although the powers, duties, agreements, and liabilities of the entities listed in subsection (a) have been transferred to the consolidated city, and the consolidated city shall be considered to have assumed all of those powers, duties, agreements, and liabilities. ~~Indebtedness related to fire protection services that is incurred by the consolidated city before the effective date of the consolidation shall remain the debt of the consolidated city and property taxes levied to pay the debt may only be levied by the fire special service district.~~

~~(f)~~ **(n)** If ~~the requirements of subsection (g) are satisfied and~~ the fire ~~department~~ **departments** of ~~an entity~~ **the entities** listed in subsection (a) ~~is~~ **are** consolidated into the fire department of a consolidated city, the merit board and the merit system of the fire ~~department~~ **departments** that ~~is~~ **are** consolidated are dissolved on the effective date of the consolidation, and the duties of the merit board are transferred to and assumed by the merit board for the consolidated fire department on the effective date of the consolidation.

~~(g) A township legislative body, after approval by the township trustee, may adopt a resolution approving the consolidation of the township's fire department with the fire department of the consolidated city. A township legislative body may adopt a resolution under this subsection only after the township legislative body has held a public hearing concerning the proposed consolidation. The township legislative body shall hold the hearing not earlier than thirty (30) days after the date the resolution is introduced. The hearing shall be conducted in accordance with IC 5-14-1.5 and notice of the hearing shall be published in accordance with IC 5-3-1. If the township legislative body has adopted a resolution under this subsection, the township legislative body shall, after approval from the township trustee, forward the resolution to the legislative body of the consolidated city. If such a resolution is forwarded to the legislative body of the consolidated city and the legislative body of the consolidated city adopts an ordinance, approved by the mayor of the consolidated city, approving the consolidation of the fire department of the township into the fire department of the consolidated city, and the requirements of this subsection are satisfied. The consolidation shall take effect on the date agreed to by the township legislative body in its resolution and by the legislative body of the consolidated city in its ordinance approving the consolidation.~~

~~(h)~~ **(o)** The following apply if the ~~requirements of subsection (g) are satisfied.~~ **fire departments of the entities listed in subsection (a) are consolidated into the fire department of a consolidated city:**

~~(1) The consolidation of the fire department of that township is effective on the date agreed to by the township legislative body in the resolution and by the legislative body of the consolidated city in its ordinance approving the consolidation.~~

~~(2)~~ **(1)** Notwithstanding any other provision, a firefighter:

(A) who is a member of the 1977 fund before the effective date of a consolidation under this section; and

(B) who, after the consolidation, becomes an employee of the fire department of a consolidated city under this section;

remains a member of the 1977 fund without being required to meet the requirements under IC 36-8-8-19 and IC 36-8-8-21. The firefighter shall receive credit for any service as a member of the 1977 fund before the consolidation to determine the firefighter's eligibility for benefits under IC 36-8-8.

~~(3)~~ **(2)** Notwithstanding any other provision, a firefighter:

(A) who is a member of the 1937 fund before the effective date of a consolidation under this section; and

(B) who, after the consolidation, becomes an employee of the fire department of a consolidated city under this section;

remains a member of the 1937 fund. The firefighter shall receive credit for any service as a member of the 1937 fund before the consolidation to determine the firefighter's eligibility for benefits under IC 36-8-7.

~~(4) For property taxes first due and payable in the year in which the consolidation is effective, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5:~~

~~(A) is increased for the consolidated city by an amount equal to the maximum permissible ad valorem property tax levy in the year preceding the year in which the consolidation is effective for fire protection and related services by the township whose fire department is consolidated into the fire department of the consolidated city under this section; and~~

~~(B) is reduced for the township whose fire department is consolidated into the fire department of the consolidated city under this section by the amount equal to the maximum permissible ad valorem property tax levy in the year preceding the year in which the consolidation is effective for fire protection and related services for the township.~~

~~(5) The amount levied in the year preceding the year in which the consolidation is effective by the township whose fire department is consolidated into the fire department of the consolidated city for the township's cumulative building and equipment fund for fire protection and related services is transferred on the effective date of the consolidation to the consolidated city's cumulative building and equipment fund for fire protection and related services, which is hereby established. The consolidated city is exempted from the requirements of IC 36-8-14 and IC 6-1.1-41 regarding establishment of the cumulative building and equipment fund for fire protection and related services.~~

~~(6)~~ **(3)** The local boards for the 1937 firefighters' pension fund and the 1977 police officers' and firefighters' pension and disability fund of the ~~township~~ **entities listed in subsection (a)** are dissolved, and their services are terminated not later than the effective date of the consolidation. The duties performed by the local boards under IC 36-8-7 and IC 36-8-8, respectively, are assumed by the consolidated city's local board for the 1937 firefighters' pension fund and local board for the 1977 police officers' and firefighters' pension and disability fund, respectively. Notwithstanding any other provision, the legislative body of the consolidated city may adopt an ordinance to adjust the membership of the consolidated city's local board to reflect the consolidation.

~~(7) The consolidated city may levy property taxes within the consolidated city's maximum permissible ad valorem property tax levy limit to provide for the payment of the expenses for the operation of the consolidated fire department. However, property taxes to fund the pension obligation under IC 36-8-7 for members of the 1937 firefighters fund who were employees of the consolidated city at the time of the consolidation may be levied only by the fire special service district within the fire special service district. The fire special service district established under IC 36-3-1-6 may levy property taxes to provide for the payment of expenses for the operation of the consolidated fire department within the territory of the fire special service district. Property taxes to fund the pension obligation under IC 36-8-8 for members of the 1977 police officers' and firefighters' pension and disability fund who were members of the fire department of the consolidated city on the effective date of the consolidation may be levied only by the fire special service district within the fire special service district. Property taxes to fund the pension obligation for members of the 1937 firefighters fund who were not members of the fire department of the consolidated city on the effective date of the consolidation and members of the 1977 police officers' and firefighters' pension and disability fund who were not members of the fire department of the consolidated city on the effective date of the consolidation may be levied by the consolidated city within the city's maximum permissible ad valorem property tax levy. However, these taxes may be levied only within the fire special service district and any townships that have consolidated fire departments under this section.~~

~~(8)~~ **(4)** The executive of the consolidated city shall provide for an independent evaluation and performance audit, due before March 1 of the year in which the consolidation is effective and before March 1 in each of the following two (2) years, to determine:

(A) the amount of any cost savings, operational efficiencies, or improved service levels; and

(B) any tax shifts among taxpayers;

that result from the consolidation. The independent evaluation and performance audit must be provided to the legislative council in an electronic format under IC 5-14-6 and to the state budget committee.

SECTION 39. IC 36-3-1-6.2, AS ADDED BY P.L.227-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.2. (a) If a consolidated fire department is established under section 6.1 of this chapter, the consolidated city, through the consolidated fire department, shall after the consolidation establish, operate, and maintain emergency ambulance services (as defined in IC 16-18-2-107) in the ~~fire special service district and in those townships in the county that are consolidated under section 6.1 of this chapter.~~ **territory of the consolidated fire department taxing district.**

(b) This section does not prohibit the providing of emergency ambulance services under an interlocal agreement under IC 36-1-7.

SECTION 40. IC 36-3-1-6.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.3. (a) A consolidated fire department may not provide fire protection services for:**

(1) an excluded city; or

(2) a fire protection territory for which an excluded city is a provider unit (as defined in IC 36-8-19-3);

unless the fire protection services are provided under an interlocal agreement under IC 36-1-7 or the conditions in subsection (b) are met.

(b) For the consolidated fire department to provide fire protection services to an excluded city other than under an interlocal agreement under IC 36-1-7, all the following must occur:

(1) The legislative body of the excluded city and the city-county legislative body must adopt substantially similar ordinances authorizing the consolidation of the fire department of the excluded city into the consolidated fire department.

(2) The ordinances described in subdivision (1) must:

(A) specify the effective date of the consolidation; and

(B) set forth the conditions of the consolidation.

(c) After the effective date of the consolidation described in subsection (b), the consolidated fire department shall provide fire protection services within the territory of the excluded city.

(d) After the effective date of the consolidation described in subsection (b) and except as otherwise provided, all the property, equipment, records, rights, and contracts of the fire department of the excluded city are transferred to and assumed by the consolidated city. Any balance in an excluded city's cumulative building and equipment fund for fire protection and related services established under IC 36-8-14 before the effective date of the consolidation shall not be transferred to the consolidated city but shall be transferred first to a dedicated city fund and used to pay pension obligations under the 1937 firefighters' pension fund, if the excluded city has any unfunded liability for pension obligations for its firefighters under the 1937 firefighters' pension fund, and if any balance remains after that transfer for pension obligations the remaining balance shall be transferred to any other cumulative fund or rainy day fund established by the excluded city before the effective date of the consolidation. The balances in any funds established by an excluded city for any purpose are not transferred to the consolidated city.

(e) After the effective date of the consolidation described in subsection (b), the employees of the fire department of the excluded city cease employment with the excluded city and become employees of the consolidated fire department. These employees are not hired or rehired for purposes of IC 36-8-3.2 or IC 36-8-10.5 upon becoming employees of the consolidated fire department. The consolidated city shall assume all agreements with labor organizations that:

(1) are in effect after the effective date of the consolidation described in subsection (b); and

(2) apply to employees of the fire department of the excluded city who become employees of the consolidated fire department.

However, an employee of the excluded city may not become an employee of the consolidated fire department under this subsection unless the employee has completed a criminal history background check.

(f) Except as provided in subsection (h), the consolidated city shall assume, defease, pay, or refund all indebtedness related to fire protection facilities or fire protection equipment incurred before the effective date of the consolidation described in subsection (b) by:

(1) an excluded city; or

(2) a building, holding, or leasing corporation on behalf of an excluded city;

whose fire department is consolidated into the consolidated fire department under subsection (b). Indebtedness related to fire protection operations (excluding indebtedness related to fire protection facilities or fire protection equipment) that is incurred before the effective date of the consolidation by the excluded city whose fire department is consolidated into the consolidated fire department shall remain the debt of the excluded city and does not become and may not be assumed by the consolidated city.

(g) Notwithstanding any other law, to assume, defease, pay, or refund all or a part of the indebtedness related to fire protection facilities or fire protection equipment under subsection (f), the consolidated city is not required to comply with any other statutory procedures or approvals that apply when a unit incurs indebtedness.

(h) Notwithstanding subsections (f) and (g), the consolidated city may not assume all or a part of the indebtedness described in subsection (f) that will cause the consolidated city to exceed the limitations on the amount of indebtedness that the consolidated city may incur.

(i) The rights of the trustee and the bondholders with respect to any:

(1) indebtedness or bonds; or

(2) bond resolution, trust agreement or indenture, security agreement, purchase agreement, or other undertaking described in subsection (f);

remain the same, although the powers, duties, agreements, and

liabilities of the departments listed in subsection (a) have been transferred to the consolidated city, and the consolidated city shall be considered to have assumed all those powers, duties, agreements, and liabilities.

(j) Whenever an excluded city consolidates its fire department into the consolidated fire department under subsection (b), the local boards for the 1937 firefighters' pension fund and the 1977 police officers' and firefighters' pension and disability fund of the excluded city are dissolved, and their services are terminated not later than the effective date of the consolidation. The duties performed by the local boards under IC 36-8-7 and IC 36-8-8, respectively, are assumed by the consolidated city's local board for the 1937 firefighters' pension fund and local board for the 1977 police officers' and firefighters' pension and disability fund, respectively.

(k) Whenever an excluded city consolidates its fire department into the consolidated fire department under subsection (b), the merit board and merit system of the excluded city's fire department are dissolved, and the duties of the excluded city's merit board are transferred to and assumed by the merit board for the consolidated fire department.

(l) Whenever an excluded city consolidates its fire department into the consolidated fire department under subsection (b), commencing with the calendar year following consolidation and for each year thereafter, the excluded city's monthly distributive share of county option income tax revenues distributed under IC 6-3.5-6-18.5 shall be reduced by a percentage set forth in the ordinances adopted under subsection (b), and those revenues shall instead be distributed to the consolidated fire department taxing district and deposited in the consolidated fire department taxing district fund.

SECTION 41. IC 36-3-1-6.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.4. (a) This section applies only to a county having a consolidated city and only if a consolidated fire department is established in the county under section 6.1 of this chapter.**

(b) As used in this section, "taxing district" refers to the consolidated fire department taxing district established in subsection (c).

(c) If a consolidated fire department is established under section 6.1 of this chapter, the consolidated fire department taxing district is established in the county. The taxing district consists of all territory in the county except territory of an excluded city that has not consolidated its fire department under section 6.3 of this chapter.

(d) Subject to subsection (f), the taxing district shall levy a property tax within the territory of the taxing district to pay for the following:

(1) Providing fire protection services and emergency ambulance services within the territory of the taxing district and providing for the operation of the consolidated fire department.

(2) Providing any equipment, buildings, or land that is necessary for the consolidated fire department and for providing fire protection services and emergency ambulance services within the territory of the taxing district.

The property tax levy under this section is separate from other property tax levies of the consolidated city, and a separate maximum permissible property tax levy shall be collected for the taxing district. All revenue collected from the tax levied under this subsection shall be deposited in a consolidated fire department fund.

(e) Subject to subsection (f), the taxing district shall levy a property tax within the territory of the taxing district to pay for the following:

(1) Any indebtedness related to fire protection facilities or fire protection equipment assumed, defeased, paid, or refunded under section 6.1 or 6.3 of this chapter.

(2) Any indebtedness issued by the consolidated city, either before or after the consolidated fire department is established, to pay for fire protection services, emergency services, or equipment, buildings, or land related to fire protection services or emergency medical services.

The property tax levy collected under this subsection shall be deposited in a consolidated fire department debt service fund.

(f) This subsection applies only during the first four (4) calendar years that the taxing district levies a property tax under this section. Notwithstanding any other statute, the total property tax rate imposed by the taxing district for a year in those parts of the taxing district that are within a particular township, but not within the boundaries of the fire special service district, may not exceed the total property tax rate imposed by the township (and a fire protection territory in the township) for fire protection services (including property taxes imposed for debt related to fire protection services) in the year preceding the year in which the taxing district first levies a property tax under this section.

(g) Money in the consolidated fire department fund shall be used for the purposes described in subsection (d), and money in the consolidated fire department debt service fund shall be used for the purposes described in subsection (e). The controller of the consolidated city shall administer the funds and is responsible for the issuance of warrants for payments from the funds.

(h) Property taxes to fund the pension obligation under IC 36-8-7 for members of the 1937 firefighters fund who are employees or retired employees of the consolidated city on the later of December 31, 2007, or the day preceding the effective date of the consolidation specified under IC 36-3-1-6.1 by the legislative body of the consolidated city may be levied only by the fire special service district created by section 6 of this chapter within the territory of the fire special service district and may not be levied by the taxing district.

(i) In the case of a township or an excluded city that consolidates its fire department under this section:

(1) the liability for the payment of pension obligations under IC 36-8-7 for members of the 1937 firefighters fund who are employees or retired employees of the township or excluded city at the time of the consolidation remains with the township or excluded city; and

(2) property taxes to fund the township's or excluded city's pension obligation described in subdivision (1) may be imposed by the township or excluded city only within the township or excluded city.

(j) For property taxes first due and payable in the first calendar year in which property taxes are imposed under this section in the taxing district, the maximum permissible ad valorem property tax levy of the taxing district under IC 6-1.1-18.5 is equal to the sum of:

(1) the sum of the property tax levies for taxes first due and payable in the preceding year for fire protection and related services (excluding debt) by each:

(A) township;

(B) airport authority; or

(C) fire protection territory;

whose fire department is consolidated into the fire department of the consolidated city under section 6.1 of this chapter, excluding amounts paid for pension obligations under IC 36-8-7 for members of the 1937 firefighters fund;

(2) the amount paid from the consolidated city's property tax levy during the preceding year for fire protection and related services (excluding debt); and

(3) the amount paid from the fire special service district's property tax levy during the preceding year for fire protection and related services, excluding amounts paid from the fire special service district's property tax levy to pay the consolidated city's pension obligation under IC 36-8-7 for members of the 1937 firefighters' pension fund.

However, the department of local government finance shall adjust any budgets, tax rates, and tax levies of the consolidated city, townships in the county, the taxing district, excluded cities that have consolidated fire departments under section 6.3 of this chapter, and the airport authority as necessary to reflect the establishment of a consolidated fire department.

(k) For property taxes first due and payable in the first calendar year in which property taxes are imposed under this section in the taxing district, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5:

(1) is decreased for each township, the airport authority, and any fire protection territory by the amount included in the taxing district's maximum permissible ad valorem property tax levy under subsection (j)(1) from the township, airport authority, or fire protection territory;

(2) is decreased for the consolidated city by the amount included in the taxing district's maximum permissible ad valorem property tax levy under subsection (j)(2); and

(3) is decreased for the fire special service district by an amount equal to the amount included in the taxing district's maximum permissible ad valorem property tax levy under subsection (j)(3).

(l) The maximum levy for a consolidated city is increased for property taxes first due and payable in the year that property taxes are first imposed under this section and each subsequent calendar year by an amount equal to the lesser of:

(1) the difference between:

(A) the maximum levy for the current year for the consolidated city's fire special service district created under section 6 of this chapter; and

(B) the amount levied for the current year for the fire special service district; or

(2) ten percent (10%) of the maximum levy for the consolidated city's fire special service district created under section 6 of this chapter for property taxes first due and payable in the year that property taxes are first imposed under this section.

SECTION 42. IC 36-3-2-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. (a) This section applies if:**

(1) a township fire department, fire protection district, or fire protection territory is consolidated into the fire department of a consolidated city under IC 36-3-1-6.1; and

(2) the township fire department, fire protection district, or fire protection territory has at least one (1) full-time, fully paid firefighter.

(b) A firefighter described in subsection (a)(2) is entitled to employment as a full-time, fully paid firefighter of the fire department of the consolidated city at not less than:

(1) the same merit or permanent rank; or

(2) a rank in the merit system of the fire department of a consolidated city that is equivalent to the merit or permanent rank;

that the firefighter held on the later of the date this section was enacted into law or the date the firefighter fills a vacant position through a merit testing process. Ranks achieved after the passage of Senate Enrolled Act 1 of the 2006 regular session of the general assembly may be reviewed by the merit board to determine if those ranks were achieved through a bona fide merit process.

(c) The fire department of:

(1) the consolidated city; and

(2) the township, fire protection district, or fire protection territory;

may not reduce or terminate the employment or benefits of a full-time, fully paid firefighter who is employed before the effective date of the consolidation because of or to facilitate the consolidation, except as negotiated in an agreement between the consolidated city and the bargaining unit representing firefighters.

(d) This section does not prohibit a fire department, fire protection district, or fire protection territory from taking disciplinary action for cause against a full-time, fully paid firefighter, including suspending, reducing in rank, or discharging the firefighter.

(e) This section does not apply to a firefighter employed by the airport authority on the effective date of the consolidation.

SECTION 43. IC 36-3-2-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12. (a) This section applies after June 30, 2006. This section applies to all political subdivisions in Marion County.**

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

(1) a husband;

(2) a wife;

(3) a father;

(4) a mother;

(5) a son or son-in-law;

(6) a daughter or daughter-in-law;

(7) a brother;

(8) a sister;

(9) an aunt;

(10) an uncle;

(11) a niece; or

(12) a nephew.

(c) An individual who is a relative of a member of a board, committee, council, or commission or the head of any office, department, or institution may not:

(1) be employed in any position with the:

(A) board, committee, council, or commission of which the individual's relative is a member; or

(B) office, department, or institution that is headed by the individual's relative; or

(2) receive any compensation as an employee for services from any appropriation by a political subdivision subject to this chapter.

(d) An individual may not be employed in a position in which the individual would have a direct supervisory or subordinate relationship with the individual's relative.

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

(1) An individual employed in the same position with the board, committee, council, commission, office, department, or institution for at least twelve (12) consecutive months immediately before the appointment or election of the individual's relative as a member of the board, committee, council, or commission or head of the office, department, or institution.

(2) The employment of any law enforcement officer or firefighter who is under the jurisdiction of a merit commission established under IC 36-8-3.5.

(f) This section does not require the termination or reassignment of any employee of a political subdivision from any position held by that individual on and continuously after June 30, 2006.

SECTION 44. IC 36-3-5-2.7, AS ADDED BY P.L.227-2005, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.7. (a) The office of finance and management is established and is responsible for:

(1) budgeting, except as provided in subsection (c);

(2) financial reporting and audits;

(3) purchasing; and

(4) fixed assets;

for all city and county departments, offices, and agencies.

(b) The controller:

(1) serves as the director of; and

(2) may organize into divisions;

the office of finance and management.

(c) The office of finance and management is not responsible for the issuance of warrants for payments from county and city funds. **A person may not sign or imprint the signature of the county auditor on, or affix the signature of the county auditor to, any warrant for the payment of county or city funds without the approval of the county auditor.**

SECTION 45. IC 36-3-5-2.8, AS ADDED BY P.L.227-2005, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.8. (a) Except as provided in subsections (b), ~~and~~ (c), **(d), and (e),** the controller:

(1) has all the powers; and

(2) performs all the duties;

of the county auditor under law.

(b) The controller:

(1) does not have the powers; and

(2) may not perform the duties;

of the county auditor under IC 36-2-9.5 and IC 36-3-6, or as a member of the board of commissioners of the county under IC 36-3-3-10.

(c) Notwithstanding subsection (a) or any other law, the executive,

with the approval of the legislative body, may allocate the duties of the county auditor, except the duties referred to in subsection (b), among:

(1) the controller;
(2) the county assessor;
(3) the county auditor; or
(4) other appropriate city or county officials.

(d) The county auditor is responsible for the payroll functions and duties for all city and county departments, offices, and agencies, and the controller may not perform these functions and duties, except as requested by the county auditor.

(e) The approval of the controller is not required for a human resources policy or personnel policy established under IC 36-3-7-6 by an elected county officer.

SECTION 46. IC 36-3-6-4.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.1. Notwithstanding IC 36-8-7, if a consolidated fire department is established under IC 36-3-1-6.1, the city-county legislative body shall adopt an ordinance to levy a property tax only within the fire special service district in the amount and at the rate necessary to produce sufficient revenue to pay amounts required to satisfy the consolidated city's 1937 firefighters' pension fund obligations under IC 36-8-7-14 for persons who are employees or retired employees of the consolidated city on the later of December 31, 2007, or the day preceding the effective date of the consolidation specified under IC 36-3-1-6.1 by the legislative body of the consolidated city.**

SECTION 47. IC 36-3-7-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. Each elected county officer is responsible for establishing the human resources policies and personnel policies that apply to employees of the county officer. An elected county officer may establish these policies without the approval of any other person, except for approval of the county legislative body required under IC 36-3-6 for compensation of employees.**

SECTION 48. IC 36-3-7-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. (a) Notwithstanding any other law, the consolidated city may issue obligations to refund obligations issued before the effective date of a consolidation under IC 36-3-1-6.1, in the name of:**

(1) a township;
(2) an airport authority;
(3) a fire protection territory; or
(4) a building, holding, or leasing corporation on behalf of a township, an airport authority, or a fire protection territory;

to satisfy the requirements of IC 36-3-1-6.1.

(b) Notwithstanding any other law, the consolidated city may issue obligations to refund obligations issued before the effective date of a consolidation under IC 36-3-1-6.3 by:

(1) an excluded city; or
(2) a building, holding, or leasing corporation on behalf of an excluded city;

to satisfy the requirements of IC 36-3-1-6.3.

SECTION 49. IC 36-3-8 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 8. Township Review Board

Sec. 1. This chapter applies only to a county containing a consolidated city.

Sec. 2. As used in this chapter, "board" refers to the township review board established by section 3 of this chapter.

Sec. 3. The township review board is established.

Sec. 4. (a) The board consists of the following members:

(1) The deputy mayor for public and neighborhood affairs of the consolidated city.
(2) The township trustee of each of the nine (9) townships in the county.
(3) Two (2) members, who must represent different political parties, appointed by the president of the city-county council.
(4) One (1) member appointed by the mayor of the consolidated city upon the recommendation of the president of the Marion County Alliance of Neighborhood Associations.
(5) One (1) member appointed by the mayor of the consolidated city upon the recommendation of the president of the Greater Indianapolis Chamber of Commerce.
(6) One (1) member appointed by the secretary of the Indiana family and social services administration.

(b) An appointing authority must make appointments under subsection (a) not later than July 1, 2006.

(c) The deputy mayor for public and neighborhood affairs must call the first meeting of the board before August 1, 2006. At the first meeting of the board, the members of the board shall elect a chairperson.

(d) If a member ceases to be employed in the position or hold the office required for appointment to the board, the member ceases to be a member of the board, and the original appointing authority shall appoint an individual to serve on the board for the remainder of the board's term.

Sec. 5. (a) A majority of the members appointed to and serving on the board constitutes a quorum for a meeting of the board.

(b) The affirmative vote of a majority of the members appointed to and serving on the board is necessary for the board to take official action.

(c) The board shall meet on the call of the chairperson.

Sec. 6. Members of the board are not entitled to any salary or per diem for participation on the board.

Sec. 7. The board shall do the following:

(1) Conduct field studies and audits to determine how best to serve constituents throughout the county after the consolidation, joint performance, or transfer of city, county, and township functions, taking into account the efficiencies that may be achieved.
(2) Make recommendations concerning the number and location of community resource centers in the county.
(3) Identify city and township services that may be provided jointly or through interlocal cooperation agreements, and make recommendations concerning the joint location of those services with other federal, state, or local government agencies.
(4) Identify which of the services provided by the township trustees or recommended to be transferred to township trustees may be located in the community resource centers.
(5) Develop a community education plan to familiarize citizens with the provision of services by various methods throughout the county.
(6) Review functions performed in the county by township trustees under IC 36-6-4-3 and make recommendations concerning any statutory changes necessary to achieve greater efficiency and lower costs in the provision of those services.
(7) Identify any services performed by the state under IC 12-8 that should be transferred to or administered jointly with townships in the county.
(8) Review the operation of small claims courts in the county.
(9) Study and make recommendations concerning the role and composition of the existing township board structure.
(10) Provide a report before December 31 of each year to the legislative body of the county containing a consolidated city and in an electronic format under IC 5-14-6 to the legislative council.

Sec. 8. (a) The board is abolished December 31, 2008.

(b) This chapter expires January 1, 2009.

SECTION 50. IC 36-6-4-3, AS AMENDED BY P.L.73-2005, SECTION 173, AND AS AMENDED BY P.L.227-2005, SECTION 36, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. The executive shall do the following:

(1) Keep a written record of official proceedings.
(2) Manage all township property interests.
(3) Keep township records open for public inspection.

(4) Attend all meetings of the township legislative body.
(5) Receive and pay out township funds.
(6) Examine and settle all accounts and demands chargeable against the township.
(7) Administer ~~*poor relief*~~ *township assistance* under IC 12-20 and IC 12-30-4.
(8) Perform the duties of fence viewer under IC 32-26, **except in a township that is located in a county having a consolidated city as provided in IC 32-26-9.**
(9) Act as township assessor when required by IC 36-6-5.
(10) Provide and maintain cemeteries under IC 23-14.
(11) Provide fire protection under IC 36-8, *except in a township that:*
(A) is located in a county having a consolidated city; and
(B) consolidated the township's fire department under IC 36-3-1-6.1.
(12) File an annual personnel report under IC 5-11-13.
(13) Provide and maintain township parks and community centers under IC 36-10, **except in a township that is located in a county having a consolidated city.**
(14) Destroy detrimental plants, noxious weeds, and rank vegetation under IC 15-3-4, **except in a township that is located in a county having a consolidated city.**
(15) Provide insulin to the poor under IC 12-20-16.
(16) Perform other duties prescribed by statute.

SECTION 51. IC 36-6-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The executive may use the township's share of state, county, and township tax revenues and federal revenue sharing funds for all categories of community services, if these funds are appropriated for these services by the township legislative body. The executive may use these funds for both operating and capital expenditures.

(b) With the consent of the township legislative body, the executive may contract with corporations for health and community services not specifically provided by another governmental entity.

(c) **Except in a township located in a county having a consolidated city after the effective date of the consolidation of fire departments under IC 36-3-1-6.1,** the executive may contract with a private person to provide regular or emergency ambulance service within the township. The contract may provide for the imposition and collection of fees for this service.

(d) **Except in a township located in a county having a consolidated city after the effective date of the consolidation of fire departments under IC 36-3-1-6.1,** the township legislative body may adopt a resolution to provide for the imposition and collection of fees for ambulance services provided by the township police or fire department.

SECTION 52. IC 36-6-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. **(a) Except as provided in subsection (b),** the assessor shall perform the duties prescribed by statute, including:
(1) assessment duties prescribed by IC 6-1.1; and
(2) administration of the dog tax and dog fund, as prescribed by IC 15-5-9.

(b) In a township located in a county having a consolidated city, the duties of the township assessor prescribed by IC 15-5-9 are performed by the controller of the consolidated city or the controller's designee.

SECTION 53. IC 36-6-6-2, AS AMENDED BY P.L.240-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as provided in subsection (b) and section 2.1 of this chapter, a three (3) member township board shall be elected under IC 3-10-2-13 by the voters of each township.

(b) The township board in a county containing a consolidated city shall consist of ~~seven (7)~~ **five (5)** members elected under IC 3-10-2-13 by the voters of each township.

(c) The township board is the township legislative body.

(d) The term of office of a township board member is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

SECTION 54. IC 36-8-4.3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to a police ~~or fire~~ special service district created by IC 36-3-1-6 **and to a consolidated fire department established under IC 36-3-1-6.1.**

SECTION 55. IC 36-8-4.3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A special service district **or a consolidated fire department established under IC 36-3-1-6.1** shall pay for the care of:
(1) a full-time, paid police officer who:
(A) suffers an injury; or
(B) contracts an illness;
during the performance of the officer's duty; or
(2) a full-time, paid firefighter who:
(A) suffers an injury; or
(B) contracts an illness;
during the performance of the firefighter's duty.

(b) The special service district **or the consolidated fire department established under IC 36-3-1-6.1** shall pay for the following expenses incurred by a police officer or firefighter described in subsection (a):
(1) Medical and surgical care.
(2) Medicines and laboratory, curative, and palliative agents and means.
(3) X-ray, diagnostic, and therapeutic service, including during the recovery period.
(4) Hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.

(c) Expenditures required by subsection (a) shall be paid from the general fund of the special service district.

(d) A special service district **or a consolidated fire department established under IC 36-3-1-6.1** that has paid for the care of a police officer or firefighter under subsection (a) has a cause of action for reimbursement of the amount paid under subsection (a) against any third party against whom the police officer or firefighter has a cause of action for an injury sustained because of, or an illness caused by, the third party. The special service district's **or consolidated fire department's** cause of action under this subsection is in addition to, and not in lieu of, the cause of action of the police officer or firefighter against the third party.

SECTION 56. IC 36-8-8-1, AS AMENDED BY P.L.227-2005, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to:
(1) full-time police officers hired or rehired after April 30, 1977, in all municipalities, or who converted their benefits under IC 19-1-17.8-7 (repealed September 1, 1981);
(2) full-time fully paid firefighters hired or rehired after April 30, 1977, or who converted their benefits under IC 19-1-36.5-7 (repealed September 1, 1981);
(3) a police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996;
(4) a park ranger who:
(A) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;
(B) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and
(C) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);
(5) a full-time fully paid firefighter who is covered by this chapter before the effective date of consolidation and becomes a member of the fire department of a consolidated city under IC 36-3-1-6.1 ~~provided that~~ **or IC 36-3-1-6.3; however,** the firefighter's service as a member of the fire department of a consolidated city is considered active service under this chapter;
(6) except as otherwise provided, a full-time fully paid firefighter who is hired or rehired after the effective date of the consolidation by a consolidated fire department established under IC 36-3-1-6.1;

(7) a full-time police officer who is covered by this chapter before the effective date of consolidation and becomes a member of the consolidated law enforcement department as part of the consolidation under IC 36-3-1-5.1, provided that the officer's service as a member of the consolidated law enforcement department is considered active service under this chapter; and

(8) except as otherwise provided, a full-time police officer who is hired or rehired after the effective date of the consolidation by a consolidated law enforcement department established under IC 36-3-1-5.1;

except as provided by section 7 of this chapter.

SECTION 57. IC 36-8-8-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.1. (a) As used in this chapter, "local board" means the following:

(1) For a unit that established a 1925 fund for its police officers, the local board described in IC 36-8-6-2.

(2) **Except as provided in subdivision (3),** for a unit that established a 1937 fund for its firefighters, the local board described in IC 36-8-7-3.

(3) For a unit that established a 1937 fund for its firefighters and consolidates its fire department into the fire department of a consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3:

(A) before the date the consolidation is effective, the local board described in IC 36-8-7-3; and

(B) on and after the date the consolidation is effective, the local board of the consolidated city established under IC 36-8-7-3.

~~(3)~~ **(4)** For a consolidated city that established a 1953 fund for its police officers, the local board described in IC 36-8-7.5-2.

~~(4)~~ **(5)** For a unit, other than a consolidated city, that did not establish a 1925 fund for its police officers or a 1937 fund for its firefighters, the local board described in subsection (b) or (c).

(b) If a unit did not establish a 1925 fund for its police officers, a local board shall be composed in the same manner described in IC 36-8-6-2(b). However, if there is not a retired member of the department, no one shall be appointed to that position until such time as there is a retired member.

(c) **Except as provided in subsection (d),** if a unit did not establish a 1937 fund for its firefighters, a local board shall be composed in the same manner described in IC 36-8-7-3(b). However, if there is not a retired member of the department, no one shall be appointed to that position until such time as there is a retired member.

(d) If a unit located in a county containing a consolidated city did not establish a 1937 fund for its firefighters and consolidates its fire department into the fire department of the consolidated city under IC 36-3-1-6.1 or IC 36-3-1-6.3, the local board is:

(1) before the effective date of the consolidation, the local board described in IC 36-8-7-3; and

(2) on and after the effective date of the consolidation, the local board of the consolidated city established under IC 36-8-7-3.

SECTION 58. IC 36-8-8-7, AS AMENDED BY HEA 1040-2006, SECTION 575, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Except as provided in subsections (d), (e), (f), (g), (h), (k), (l), and (m):

(1) a police officer; or

(2) a firefighter;

who is less than thirty-six (36) years of age and who passes the baseline statewide physical and mental examinations required under section 19 of this chapter shall be a member of the 1977 fund and is not a member of the 1925 fund, the 1937 fund, or the 1953 fund.

(b) A police officer or firefighter with service before May 1, 1977, who is hired or rehired after April 30, 1977, may receive credit under this chapter for service as a police officer or firefighter prior to entry into the 1977 fund if the employer who rehires the police officer or firefighter chooses to contribute to the 1977 fund the amount necessary to amortize the police officer's or firefighter's prior service liability over a period of not more than forty (40) years, the amount and the period to be determined by the PERF board. If the employer chooses to make the contributions, the police officer or firefighter is entitled to receive credit for the police officer's or firefighter's prior years of service without making contributions to the 1977 fund for that prior service. In no event may a police officer or firefighter receive credit for prior years of service if the police officer or firefighter is receiving a benefit or is entitled to receive a benefit in the future from any other public pension plan with respect to the prior years of service.

(c) Except as provided in section 18 of this chapter, a police officer or firefighter is entitled to credit for all years of service after April 30, 1977, with the police or fire department of an employer covered by this chapter.

(d) A police officer or firefighter with twenty (20) years of service does not become a member of the 1977 fund and is not covered by this chapter, if the police officer or firefighter:

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981); and

(3) is rehired after April 30, 1977, by the same employer.

(e) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the police officer or firefighter:

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

(3) was rehired after April 30, 1977, but before February 1, 1979; and

(4) was made, before February 1, 1979, a member of a 1925, 1937, or 1953 fund.

(f) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the police officer or firefighter:

(1) was hired by the police or fire department of a unit before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

(3) is rehired by the police or fire department of another unit after December 31, 1981; and

(4) is made, by the fiscal body of the other unit after December 31, 1981, a member of a 1925, 1937, or 1953 fund of the other unit.

If the police officer or firefighter is made a member of a 1925, 1937, or 1953 fund, the police officer or firefighter is entitled to receive credit for all the police officer's or firefighter's years of service, including years before January 1, 1982.

(g) As used in this subsection, "emergency medical services" and "emergency medical technician" have the meanings set forth in IC 16-18-2-110 and IC 16-18-2-112. A firefighter who:

(1) is employed by a unit that is participating in the 1977 fund;

(2) was employed as an emergency medical technician by a political subdivision wholly or partially within the department's jurisdiction;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) ceased employment with the political subdivision and was hired by the unit's fire department due to the reorganization of emergency medical services within the department's jurisdiction;

shall participate in the 1977 fund. A firefighter who participates in the 1977 fund under this subsection is subject to sections 18 and 21 of this chapter.

(h) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the individual was appointed as:

(1) a fire chief under a waiver under IC 36-8-4-6(c); or

(2) a police chief under a waiver under IC 36-8-4-6.5(c);

unless the executive of the unit requests that the 1977 fund accept the individual in the 1977 fund and the individual previously was a member of the 1977 fund.

(i) A police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996, is a member of the 1977 fund.

(j) A park ranger who:

(1) completed at least the number of weeks of training at the

Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;

(2) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and

(3) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

is a member of the fund.

(k) Notwithstanding any other provision of this chapter, a police officer or firefighter:

(1) who is a member of the 1977 fund before a consolidation under IC 36-3-1-5.1, ~~or~~ IC 36-3-1-6.1, **or IC 36-3-1-6.3;**

(2) whose employer is consolidated into the consolidated law enforcement department or the fire department of a consolidated city under IC 36-3-1-5.1, ~~or~~ IC 36-3-1-6.1, **or IC 36-3-1-6.3;** and

(3) who, after the consolidation, becomes an employee of the consolidated law enforcement department or the consolidated fire department under IC 36-3-1-5.1, ~~or~~ IC 36-3-1-6.1, **or IC 36-3-1-6.3;**

is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(l) Notwithstanding any other provision of this chapter, if:

(1) before a consolidation under IC 8-22-3-11.6 a police officer or firefighter provides law enforcement services or fire protection services for an entity in a consolidated city;

(2) the provision of those services is consolidated into the **consolidated** law enforcement department or **the** fire department of a consolidated city **under IC 36-3-1-5.1 or IC 36-3-1-6.1;** and

(3) after the consolidation, the police officer or firefighter becomes an employee of the consolidated law enforcement department or the consolidated fire department under IC 8-22-3-11.6;

the police officer or firefighter is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(m) A police officer or firefighter who is a member of the 1977 fund under subsection (k) or (l):

(1) may not be:

~~(1)~~ **(A)** retired for purposes of section 10 of this chapter; or

~~(2)~~ **(B)** disabled for purposes of section 12 of this chapter;

solely because of a change in employer under the consolidation; **and**

(2) shall receive credit for all years of service as a member of the 1977 fund before the consolidation described in subsection (k) or (l).

SECTION 59. IC 36-8-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to all units except counties. **However, this chapter applies to a county containing a consolidated city if a consolidated fire department is established under IC 36-3-1-6.1.**

SECTION 60. IC 36-8-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) To provide for the cumulative building and equipment fund established under this chapter, the legislative body may levy a tax on all taxable property within the ~~taxing district~~ **unit, fire protection district, or territory of a consolidated fire department taxing district** in compliance with IC 6-1.1-41. The tax rate may not exceed three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) of assessed valuation of property in the ~~taxing district.~~ **unit, fire protection district, or consolidated fire department taxing district.**

(b) As the tax is collected, it shall be deposited in a qualified public depository or depositories and held in a special fund to be known as:

(1) the "building or remodeling, firefighting, and police radio equipment fund" in the case of a municipality **or consolidated fire department taxing district;** or ~~as~~

(2) the "building or remodeling and fire equipment fund" in the case of a township or fire protection district.

(c) Notwithstanding IC 6-1.1-41 or any other law, if a consolidated fire department is established under IC 36-3-1-6.1:

(1) a cumulative building and equipment fund is established for the county containing a consolidated city; and

(2) the legislative body of the county containing a consolidated city may levy a tax under this chapter beginning in the calendar year following the year in which the consolidated fire department is established.

A tax levied under this chapter by a county containing a consolidated city may only be levied within the territory of the consolidated fire department taxing district.

SECTION 61. IC 36-10-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to the townships indicated in each section.

(b) After December 31, 2006:

(1) this chapter does not apply to a township in a county having a consolidated city; and

(2) all powers and duties related to parks and recreation of the townships shall be transferred to the consolidated city.

SECTION 62. IC 36-10-7.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. **(a) Except as provided in subsection (b),** this chapter applies to ~~all townships.~~ **a township.**

(b) After December 31, 2006:

(1) this chapter does not apply to a township in a county having a consolidated city; and

(2) all powers and duties related to parks and recreation of the townships shall be transferred to the consolidated city.

SECTION 63. [EFFECTIVE JULY 1, 2006] **(a) This SECTION applies only to a township in a county having a consolidated city.**

(b) IC 36-6-6-2, as amended by this act, does not affect the term of a township legislative body member that expires on January 1, 2009.

(c) After June 30, 2006, a township legislative body shall adopt a resolution under IC 36-6-6-2.5, dividing the township into five (5) legislative body districts in accordance with IC 36-6-6-2, as amended by this act. A five (5) member township legislative body shall be elected in accordance with IC 36-6-6-2, as amended by this act, at the 2008 general election.

(d) This SECTION expires January 1, 2009.

SECTION 64. [EFFECTIVE JANUARY 1, 2007] **(a) All assets, property rights, equipment, records, personnel, and contracts and all else connected with:**

(1) providing and maintaining parks and community centers under IC 36-10-7 and IC 36-10-7.5;

(2) administering the dog tax and dog fund under IC 15-5-9;

(3) performing duties regarding fences under IC 32-26; and

(4) destroying detrimental plants, noxious weeds, and rank vegetation under IC 15-3-4;

by a township in a county having a consolidated city are transferred to the consolidated city on January 1, 2007.

(b) Any indebtedness regarding the activities set forth in subsection (a)(1) through (a)(5) that was incurred by a township before January 1, 2007, shall be assumed or defeased by the consolidated city, notwithstanding any other provision of Indiana law requiring completion of certain procedures and approvals for the incurrence of indebtedness; however, the indebtedness (or any part of the indebtedness) may not be assumed by the consolidated city if the assumption would cause the consolidated city to exceed any limitation on the amount of indebtedness that may be incurred by the consolidated city.

(c) The ad valorem property tax levy limits imposed by IC 6-1.1-18.5 do not apply to ad valorem property taxes imposed by a consolidated city to pay or fund any indebtedness assumed, defeased, paid, or refunded under subsection (b).

SECTION 65. [EFFECTIVE JULY 1, 2006] **(a) For property taxes first due and payable in 2007, the maximum permissible ad valorem property tax levy under IC 6-1.1-18.5:**

(1) is increased for a consolidated city by the amount levied in 2006 by each township in the county having a consolidated city for:

(A) providing and maintaining parks and community centers under IC 36-10-7 and IC 36-10-7.5;

(B) administering the dog tax and dog fund under

IC 15-5-9;

(C) performing duties regarding fences under IC 32-26; and

(D) destroying detrimental plants, noxious weeds, and rank vegetation under IC 15-3-4; and

(2) is reduced for a township in a county having a consolidated city by the amount levied in 2006 for:

(A) providing and maintaining parks and community centers under IC 36-10-7 and IC 36-10-7.5;

(B) administering the dog tax and dog fund under IC 15-5-9;

(C) performing duties regarding fences under IC 32-26; and

(D) destroying detrimental plants, noxious weeds, and rank vegetation under IC 15-3-4.

(b) This SECTION expires January 1, 2008.

SECTION 66. [EFFECTIVE UPON PASSAGE] **The general assembly finds that the consolidated city and townships in the county containing a consolidated city are unique because of their size, population density, and absence of unincorporated areas.**

SECTION 67. [EFFECTIVE UPON PASSAGE] **The legislative services agency shall prepare legislation for introduction in the 2007 regular session of the general assembly to organize and correct statutes affected by this act, if necessary.**

SECTION 68. **An emergency is declared for this act**.

Renumber all SECTIONS consecutively.

(Reference is to ESB 1 as reprinted March 2, 2006.)

M. YOUNG	BUCK
C. LAWSON	HOFFMAN
Senate Conferees	House Conferees

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

CONFERENCE COMMITTEE REPORT

ESB 349–2; filed March 14, 2006, at 10:42 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 349 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 27-1-15.6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) As used in this section, "insurer" does not include an officer, director, employee, subsidiary, or affiliate of an insurer.

(b) This chapter does not require an insurer to obtain an insurance producer license.

(c) The following are not required to be licensed as an insurance producer:

(1) An officer, director, or employee of an insurer or of an insurance producer, if the officer, director, or employee does not receive any commission on policies written or sold to insure risks that reside, are located, or are to be performed in Indiana, and if:

(A) the officer, director, or employee's activities are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance;

(B) the officer, director, or employee's function relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or

(C) the officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers and the officer, director, or employee's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation, or negotiation of insurance.

(2) A person who secures and furnishes information for the purpose of:

(A) group life insurance, group property and casualty insurance, group annuities, group or blanket accident and sickness insurance;

(B) enrolling individuals under plans;

(C) issuing certificates under plans or otherwise assisting in administering plans; or

(D) performing administrative services related to mass marketed property and casualty insurance;

where no commission is paid to the person for the service.

(3) A person identified in clauses (A) through (C) who is not in any manner compensated, directly or indirectly, by a company issuing a contract, to the extent that the person is engaged in the administration or operation of a program of employee benefits for the employer's or association's employees, or for the employees of a subsidiary or affiliate of the employer or association, that involves the use of insurance issued by an insurer:

(A) An employer or association.

(B) An officer, director, or employee of an employer or association.

(C) The trustees of an employee trust plan.

(4) An:

(A) employee of an insurer; or

(B) organization employed by insurers;

that is engaged in the inspection, rating, or classification of risks, or in the supervision of the training of insurance producers, and that is not individually engaged in the sale, solicitation, or negotiation of insurance.

(5) A person whose activities in Indiana are limited to advertising, without the intent to solicit insurance in Indiana, through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of Indiana, provided that the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in Indiana.

(6) A person who is not a resident of Indiana and who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that:

(A) the person is otherwise licensed as an insurance producer to sell, solicit, or negotiate the insurance in the state where the insured maintains its principal place of business; and

(B) the contract of insurance insures risks located in that state.

(7) A salaried full-time employee who counsels or advises the employee's employer about the insurance interests of the employer or of the subsidiaries or business affiliates of the employer, provided that the employee does not sell or solicit insurance or receive a commission.

(8) An officer, employee, or representative of a rental company (as defined in IC 24-4-9-7) who negotiates or solicits insurance incidental to and in connection with the rental of a motor vehicle.

(9) An individual who:

(A) furnishes only title insurance rate information at the request of a consumer; and

(B) does not discuss the terms or conditions of a title insurance policy.

(10) A licensed attorney when acting as a title insurance producer (as defined in IC 27-7-3.5-16) or a title insurance agent (as defined in IC 27-7-3.5-19).

SECTION 2. IC 27-7-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 3.5. Title Insurance

Sec. 1. As used in this chapter, "abstract of title" means a written history, synopsis, or summary of recorded instruments affecting the title to real property.

Sec. 2. As used in this chapter, "affiliated business" means a part of a title insurance agent's business written in Indiana that was referred to the title insurance agent by a producer of title insurance business or an associate of a producer of title insurance business, in circumstances in which the producer or the associate,

or both, have a financial interest in the title insurance agent.

Sec. 3. As used in this chapter, "alien title insurer" means a title insurer that is incorporated or organized under the laws of a foreign nation or a foreign province or territory.

Sec. 4. As used in this chapter, "associate" means the following:

(1) A business organized for profit in which a producer of title insurance business is a director, an officer, a partner, an employee, or an owner of a financial interest in the business.

(2) An employee of a producer of title insurance business.

(3) A franchiser or franchisee of a producer of title insurance business.

(4) A spouse, parent, or child of a producer of title insurance business.

(5) A person, other than a natural person, that controls, is controlled by, or is under common control with a producer of title insurance business.

(6) A person with whom a producer of title insurance business or an associate of a producer of title insurance business has an agreement, arrangement, or understanding, or pursues a course of conduct, the purpose or effect of which is to provide financial benefits to the producer or associate for the referral of title insurance business.

Sec. 5. As used in this chapter, "bona fide employee" means an individual:

(1) who devotes substantially all of the individual's time to performing services on behalf of a title insurer or title insurance agent; and

(2) whose compensation for the services described in subdivision (1) is in the form of salary or the equivalent paid by the title insurer or title insurance agent.

Sec. 6. As used in this chapter, "chattels real" means an interest in real estate that is less than a freehold or fee interest.

Sec. 7. As used in this chapter, "closing protection letter" means an indemnification of or undertaking to a party to a real estate transaction by a principal, such as a title insurance company, setting forth in writing the extent to which the principal is responsible for intentional or unintentional misconduct or errors of the principal's agent in closing the real estate transaction.

Sec. 8. As used in this chapter, "commissioner" means the insurance commissioner appointed under IC 27-1-1-2, the commissioner's representative, or the commissioner, director, or superintendent of insurance in another state.

Sec. 9. As used in this chapter, "department" refers to the department of insurance created by IC 27-1-1-1.

Sec. 10. As used in this chapter, "escrow" means written instruments, money, or other items deposited by a party with a depository, an escrow agent, or an escrowee for delivery to another party upon the performance of a specified condition or the happening of a certain event.

Sec. 11. As used in this chapter, "financial interest" means a:

(1) direct or indirect; and

(2) legal or beneficial;

interest in an entity, in which the holder of the interest is or will be entitled to at least five percent (5%) of the net profits or net worth of the entity.

Sec. 12. As used in this chapter, "foreign title insurer" means a title insurer that is incorporated or organized under the laws of another state, the District of Columbia, or another jurisdiction of the United States.

Sec. 13. As used in this chapter, "person" means a natural person, a partnership, an association, a cooperative, a corporation, a trust, a limited liability company, or another legal entity.

Sec. 14. As used in this chapter, "premium" means the charge:

(1) specified under a rule adopted by the commissioner;

(2) that is made by a title insurer for a title insurance policy, including the charge for:

(A) performance of primary title services by a title insurer, title insurance agent, or title agency; and

(B) incurring the risks incident to the title insurance policy;

under the several classifications of title insurance policies and forms; and

(3) upon which a premium tax is paid.

Sec. 15. As used in this chapter, "primary title services" means the following services:

(1) Evaluation of a title search or an abstract of title to determine the insurability of title.

(2) Clearance of underwriting objections.

(3) Issuance and assumption of responsibility for the issuance of a title insurance policy.

(4) Issuance of closing protection letters.

Sec. 16. (a) As used in this chapter, "producer" means a person, including an officer, director, or owner of five percent (5%) or more of the equity or capital of a person, that is engaged in Indiana in the trade, business, occupation, or profession of:

(1) buying or selling interests in real property;

(2) making loans secured by interests in real property; or

(3) acting as a broker, an agent, or a representative of a person who:

(A) buys or sells an interest in real property; or

(B) lends or borrows money using an interest in real property as security for the loan.

(b) The term does not include an insurance producer or a limited lines producer (both as defined in IC 27-1-15.6-2).

Sec. 17. As used in this chapter, "referral" means the direction or the exercise of a power or influence over the direction of title insurance business, regardless of whether the consent or approval of another person is sought or obtained with respect to the direction or exercise.

Sec. 18. As used in this chapter, "security deposit" means funds or other property received by a title insurance agent as collateral to secure an indemnitor's obligation under an indemnity agreement under which a title insurer:

(1) agrees to provide coverage:

(A) under a title insurance policy; and

(B) that would otherwise be excluded under a specific exception to coverage; and

(2) is granted a perfected security interest in the collateral in exchange for agreeing to provide the coverage described in subdivision (1).

Sec. 19. As used in this chapter, "title insurance agent" means an authorized person, other than a bona fide employee of a title insurer or an attorney licensed to practice law in Indiana, who:

(1) is licensed as a limited lines producer under IC 27-1-15.6; and

(2) on behalf of a title insurer performs the following acts in conjunction with the issuance of a title insurance report or title insurance policy:

(A) Determines insurability and issues a title insurance report or a title insurance policy, or both, based on the performance or review of a title search, an examination of title, or an abstract of title.

(B) Performs one (1) or more of the following functions:

(i) Collection or disbursement of premiums, escrow, security deposits, or other funds.

(ii) Management of escrow, settlement, or closing.

(iii) Solicitation or negotiation of title insurance business.

The term includes a title agency.

Sec. 20. As used in this chapter, "title insurance business" means any of the following:

(1) Issuing or offering to issue, as a title insurer, a title insurance policy.

(2) Transacting or proposing to transact, as a title insurance agent or title insurer, any of the following activities when conducted or performed in contemplation of or in conjunction with the issuance of a title insurance policy:

(A) Solicitation or negotiation of the issuance of a title insurance policy.

(B) Guaranteeing, warranting, or otherwise insuring the correctness of a title search for instruments affecting the title to:

(i) real property;

(ii) chattels real;

(iii) cooperative units; and
(iv) proprietary leases;
and liens or charges affecting the property described in items (i) through (iv).
(C) Management of escrow, settlement, or closing.
(D) Execution of title insurance policies.
(E) Effectuation of contracts of reinsurance.
(F) Abstraction, searches, or examination of titles.
(G) Issuance of closing protection letters.
(3) Guaranteeing, warranting, or insuring searches or examinations of title to real property or chattels real.
(4) Guaranteeing or warranting the status of title concerning:
(A) ownership of; or
(B) liens on;
real property and chattels real by a person other than a principal to a transaction related to issuance of a title insurance policy.

Sec. 21. As used in this chapter, "title insurance policy" means a contract insuring or indemnifying the owner of, or another person that is lawfully interested in, real or personal property or chattels real, against loss or damage arising from any of the following conditions existing on or before the title insurance policy date and not excepted or excluded:
(1) Defects in or liens or encumbrances on the insured title.
(2) Unmarketability of the insured title.
(3) Invalidity, lack of priority, or unenforceability of liens or encumbrances on the property.
(4) Lack of legal right of access to real property.
(5) Unenforceability of rights in title to real property.

Sec. 22. As used in this chapter, "title insurance report" means a preliminary report, commitment, or binder:
(1) issued before the issuance of a title insurance policy; and
(2) containing the terms, conditions, exceptions, and other matters incorporated by reference under which a title insurer will issue a title insurance policy.

Sec. 23. As used in this chapter, "title insurance subagent" means a person, other than a bona fide employee of a title insurance agent, who on behalf of a title insurance agent determines insurability and issues a title insurance report or title insurance policy, or both, based on the performance or review of a title search or abstract of title. The term does not include a licensed attorney that performs legal services, including title examination or closing services.

Sec. 24. As used in this chapter, "title insurer" means the following:
(1) A company organized under Indiana law to transact title insurance business.
(2) A foreign title insurer or alien title insurer that is licensed in Indiana to transact title insurance business.

Sec. 25. As used in this chapter, "underwrite" means to accept or reject risk:
(1) on behalf of a title insurer; and
(2) under authority granted by the title insurer.

Sec. 26. (a) The commissioner shall adopt rules under IC 4-22-2 to establish criteria and a process for licensure of the following:
(1) A title agency.
(2) A title insurance agent.

(b) A license may be issued under this section if each person named on the license possesses all qualifications determined appropriate by the commissioner.

(c) A person shall not act as a title agency or title insurance agent, and a title insurer may not contract with a person to act as a title agency or title insurance agent, with respect to risks located in Indiana unless the person is licensed under this section as a title agency, title insurance agent, or licensed attorney in Indiana.

(d) An individual:
(1) employed by or contracted by a title agency, title insurance agent, or title insurer;
(2) to whom the title agency, title insurance agent, or title insurer delegates authority to act on the title agency's, title insurance agent's, or title insurer's behalf; and
(3) who engages in title insurance business;
shall be individually licensed under this section. This subsection does not require licensure of an individual who performs only clerical or administrative functions, including quoting title insurance fees.

(e) An applicant for a title agency license or a title insurance agent license under this section must also satisfy the requirements of IC 27-1-15.6 that apply to the title agency or title insurance agent.

(f) A title insurer that engages or employs a title agency shall file with the department, on a form prescribed by the department, an application certifying that the proposed title agency meets both of the following requirements:
(1) The title agency has obtained a fidelity bond in an amount that is acceptable to the title insurer, but not less than fifty thousand dollars ($50,000).
(2) The title agency has obtained an errors and omissions insurance policy:
(A) that provides coverage for an opinion of title;
(B) from an insurer that is acceptable to the title insurer; and
(C) in an amount acceptable to the title insurer, but not less than two hundred fifty thousand dollars ($250,000) per claim with an aggregate limit.
The department shall adopt rules under IC 4-22-2 to specify an alternative method of compliance with subdivisions (1) and (2) if a fidelity bond or errors and omissions insurance is generally unavailable.

(g) A title agency shall provide to a title insurer with which the title agency places title insurance business, in a timely manner, information requested by the title insurer to comply with reporting requirements of the department.

(h) To obtain an initial license under this section, a title agency shall comply with the requirements of section 27(a) of this chapter.

Sec. 27. (a) To obtain an initial license under section 26 of this chapter, a title agency shall:
(1) have deposited with the department securities of the type described in IC 27-1-13-3(b) and having at all times a market value of not less than ten thousand dollars ($10,000); or
(2) post a surety bond of not less than ten thousand dollars ($10,000) payable to the department;
to secure the title agency's performance of the title agency's duties and responsibilities under the contract described in section 30 of this chapter and entered into between the title agency and each title insurer for which the title agency is appointed. If a surety bond is generally unavailable, the department may adopt rules under IC 4-22-2 to establish alternative methods by which a title agency may comply with this subsection.

(b) The deposit made or bond posted under subsection (a) is for the benefit of a person insured under a title insurance policy and damaged by the title agency's violation of this chapter or of a contractual duty or responsibility described in subsection (a).

(c) A title insurer shall not, directly or indirectly on behalf of a title agency, provide a deposit or bond required under subsection (a).

(d) A title agency may:
(1) exchange or substitute securities:
(A) described in IC 27-1-13-3(b); and
(B) of like quality and value;
for securities on deposit;
(2) receive interest and other income accruing on securities deposited; and
(3) at reasonable times, inspect a deposit of securities made; under subsection (a)(1).

(e) If a properly documented claim is timely filed with the department by a person described in subsection (b), the department may remit to the person in payment of the claim an appropriate amount of:
(1) a deposit made under subsection (a); or
(2) proceeds that are received from the surety.

(f) A deposit or bond described in subsection (a) must remain unimpaired while the title agency continues in business in Indiana

and for one (1) year after termination of all title agency appointments held by the title agency. If there are no claims outstanding against the deposit or bond one (1) year after termination of the appointments, the department shall return the deposit or bond and any accrued interest to the title agency.

Sec. 28. (a) A title agency or title insurance agent that is licensed under section 26 of this chapter shall comply with the requirements of IC 27-1-15.7 that apply to the title agency or title insurance agent.

(b) A continuing education course must be approved under IC 27-1-15.7-4.

(c) An individual who teaches an approved course of instruction or lectures at an approved seminar qualifies for the same number of continuing education hours as would be granted to an individual who takes and successfully completes the course or seminar.

(d) The department may grant an individual waiver of the continuing education requirements of IC 27-1-15.7 upon a showing by a licensee that it is not feasible for the licensee to satisfy the requirements before the licensee's license renewal date for an acceptable reason, including the licensee's:

(1) serious physical injury or illness; or

(2) active duty in the armed services for an extended period.

(e) An individual who is subject to this section shall furnish, in a manner satisfactory to the department, certification of the individual's completion of courses, programs, or seminars required by this section.

Sec. 29. (a) In addition to the requirements of sections 26(f) and 27 of this chapter, the commissioner may require a title insurance agent to maintain, for the benefit of a title insurer, an insured, or a depositor, under terms and conditions to be prescribed by the commissioner, in amounts commensurate with the title insurance agent's average exposure and the volume and nature of the title insurance agent's business, a sufficient net worth to ensure the title insurance agent's solvency and commitment to the purpose of being a title insurance agent.

(b) In determining the precise amount and terms and conditions described in subsection (a), the commissioner may adopt rules under IC 4-22-2 that:

(1) specify acceptable alternatives to the net worth requirements described in subsection (a); and

(2) exempt certain persons from complying with all or part of the net worth requirements described in subsection (a) or specified alternatives to the net worth requirements by virtue of:

(A) the person's actual or expected volume of business; or

(B) individual circumstances that show that the requirements would pose an undue hardship on the title insurance agent and the title insurance agent's services will be needed by and desirable to insureds.

(c) The commissioner may adopt rules under IC 4-22-2 to specify information that must be provided to evidence sufficiency of a title insurance agent's net worth as described in subsection (a).

(d) Financial information provided to evidence sufficiency of a title insurance agent's net worth under this section is confidential.

(e) A title insurance agent shall perform, through the title insurance agent's bona fide employees, primary title services to receive compensation for the services the title insurance agent renders.

Sec. 30. (a) A person, firm, association, or corporation that acts as a title insurance agent shall not place title insurance business with a title insurer unless a written contract is in force between the title insurance agent and the title insurer that:

(1) specifies the responsibilities of each party;

(2) if both parties share responsibility for a particular function, specifies the division of the responsibilities; and

(3) contains the following minimum provisions:

(A) The title insurer may terminate the contract upon written notice if one (1) of the following occurs:

(i) Fraud, insolvency, appointment of a receiver or conservator, bankruptcy, cancellation of the title insurance agent's license to do title insurance business, or the commencement of legal proceedings by the state of domicile of the title insurance agent that, if successful, will lead to cancellation of the title insurance agent's license to do title insurance business.

(ii) Material breach of a provision of the contract.

(iii) Notice of cancellation is provided in accordance with contract termination requirements.

(B) Upon notice of termination, the title insurance agent shall immediately discontinue all underwriting on behalf of the title insurer.

This subdivision does not relieve a title insurance agent or title insurer of a contractual obligation not specified in this subdivision.

(b) A title insurance agent shall render accounts detailing all transactions, and remit all funds, due to a title insurer under the contract described in subsection (a) to the title insurer before the later of the following:

(1) Forty-five (45) days after the end of the month of the effective date of the title insurance policy.

(2) Within the time specified by the underwriting contract.

(c) Funds collected by a title insurance agent for the account of a title insurer:

(1) must be held in a fiduciary capacity in a bank that is a qualified financial institution; and

(2) are the property of the title insurer for whom the funds are collected.

(d) A title insurance agent shall keep records concerning funds described in subsection (c) in a manner that permits identification of funds that belong to a particular title insurer.

(e) At a title insurer's request, a title insurance agent or a title insurance agent's successor in interest, transferee, or receiver shall provide access to and the right to copy all escrow files and underwriting files involving a transaction in which a title insurance report or title insurance policy is issued or will be issued by the title insurance agent.

(f) A title insurance agent shall provide to a title insurer access to and a right to copy accounts and records maintained by the title insurance agent with respect to title insurance business placed with the title insurer.

(g) A contract described in subsection (a) may not be assigned in whole or in part by a title insurance agent without the expressed written consent of the title insurer.

(h) It is the duty of a title insurance agent to immediately report and forward to a title insurer all title related escrow claims and title claims reported to the title insurance agent by a policyholder or another person. However, if the contract described in subsection (a) permits the title insurance agent to settle claims on behalf of the title insurer:

(1) the title insurance agent shall send a copy of the claim file to the title insurer at the title insurer's request or as soon as it is known by the title insurance agent that the claim:

(A) has the potential to exceed an amount established by the title insurer;

(B) involves a coverage dispute;

(C) may exceed the title insurance agent's claims settlement authority;

(D) is open for more than six (6) months; or

(E) is closed by payment exceeding an amount established by the title insurer;

(2) files related to title and title related escrow claims settled by the title insurance agent are the property of the title insurer; and

(3) the title insurer may:

(A) suspend a settlement authority granted to the title insurance agent during a pending dispute regarding a cause for termination of the contract described in subsection (a); or

(B) upon:

(i) the title insurer's written notice to the title insurance agent; or

(ii) the termination of the contract described in subsection (a);

immediately terminate a settlement authority granted to

the title insurance agent.

This subdivision does not relieve a title insurance agent or title insurer of any other contractual obligation.

(i) If electronic claims files exist in the records of a title insurance agent, the contract described in subsection (a) must address the immediate transmission of the data contained in the electronic claims files.

(j) A title insurance agent shall not:

(1) bind reinsurance or retrocession on behalf of a title insurer; or

(2) appoint a title insurance subagent, without the expressed written consent of the title insurance underwriter that provides underwriting services under a contract with a title insurer.

(k) The contract described in subsection (a) must include specific terms of a title insurance agent's compensation.

(l) A title insurance agent shall maintain an inventory of title insurance policy forms or title insurance policy numbers assigned to the title insurance agent by a title insurer.

(m) A title insurance agent shall:

(1) annually;

(2) within a time specified by the contract described in subsection (a); or

(3) concurrent with the renewal date of the title insurance agent's contract with a title insurer;

furnish a title insurer with proof that the title insurance agent is in compliance with section 26 of this chapter.

(n) A:

(1) title insurer; or

(2) title insurance agent on behalf of a title insurer;

shall issue a title insurance policy not later than sixty (60) days after all conditions or requirements specified in the title insurance report have been satisfied. However, if a title insurance policy cannot be issued within the period set forth in this subsection due to an act of God or war, the policy must be issued within a reasonable period determined by the department.

Sec. 31. (a) If:

(1) a title insurance agent or title insurer provides settlement services and issues a lender's title insurance policy in conjunction with a mortgage loan made simultaneously with the purchase of all or part of residential real estate securing the loan; and

(2) an owner's title insurance policy has not been requested;

the title insurance agent or title insurer shall, at the time the title insurance report is prepared, provide written notice described in subsection (b) to the purchaser-mortgagor or the purchaser-mortgagor's representative.

(b) Notice provided under subsection (a) must explain:

(1) that a lender's title insurance policy will be issued to protect the mortgage lender;

(2) that the lender's title insurance policy does not provide title insurance protection to the purchaser-mortgagor as the owner of the property being purchased;

(3) what an owner's title insurance policy insures against;

(4) what possible risks exist for the purchaser-mortgagor that could be insured against through the purchase of an owner's title insurance policy; and

(5) that the purchaser-mortgagor may obtain an owner's title insurance policy protecting the property owner for an additional cost.

(c) A title insurer or title insurance agent shall, at the time the title insurance report is prepared, provide written notice to all parties that receive the title insurance report that a closing protection letter may be purchased.

(d) The department shall adopt rules under IC 4-22-2 to specify the content of each notice required under this section.

Sec. 32. (a) A title insurance agent shall maintain sufficient records of the title insurance agent's affairs, including the title insurance agent's escrow operations and escrow trust accounts, to allow the commissioner to adequately ensure that the title insurance agent is in compliance with this chapter.

(b) The commissioner may prescribe:

(1) specific record entries and documents that must be maintained under subsection (a); and

(2) the length of time for which the records and documents must be maintained.

Sec. 33. (a) A title insurance agent, an officer, a director, or an employee of a title insurance agent, or a person associated with a title insurance agent or an officer, a director, or an employee of a title insurance agent, who:

(1) is an independent contractor for bookkeeping or similar purposes; and

(2) knowingly or intentionally converts or misappropriates funds received or held in escrow or in trust by the title insurance agent;

or a person who knowingly or intentionally receives or conspires to receive funds described in subdivision (2) commits an offense described in IC 35-43-9-7.

(b) If a title insurance agent or title agency defalcates, converts, or misappropriates funds held by the title insurance agent or title agency and the title insurance agent or title agency is convicted of an offense under IC 35-43-9-7, the following apply:

(1) The title insurer is liable for the defalcation, conversion, or misappropriation by the title insurance agent or title agency.

(2) If the title insurance agent or title agency is a title insurance agent or title agency for two (2) or more title insurers, the liability must be borne by the title insurer upon which a title insurance report or title insurance policy was issued before the illegal act.

However, a title insurer's liability under this subsection is limited to the amount payable under a title insurance policy issued or committed, or a closing protection letter issued, in connection with the real estate closing or escrow in relation to which the defalcation, conversion, or misappropriation is committed, plus reasonable attorney's fees.

(c) A title insurer shall, at least annually, conduct an on-site review of the underwriting, claims, and escrow practices of a title insurance agent, including a review of the title insurance agent's title insurance policy blank inventory and processing operations. If the title insurance agent does not maintain separate bank or trust accounts for each title insurer that the title insurance agent represents, the title insurer shall verify that the funds held on the title insurer's behalf are reasonably ascertainable from the books of account and records of the title insurance agent.

Sec. 34. (a) The commissioner shall establish a title insurance enforcement unit to enforce this chapter.

(b) The title insurance enforcement unit shall do the following:

(1) Investigate deceptive acts in connection with title insurance.

(2) Investigate violations of this chapter.

(3) Cooperate with federal, state, and local law enforcement agencies in the investigation of:

(A) deceptive acts in connection with title insurance; and

(B) violations of the federal Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.).

(c) The following may cooperate with the title insurance enforcement unit, including sharing information that is otherwise confidential, to enforce compliance with this chapter:

(1) The professional licensing agency and appropriate licensing boards with respect to a person licensed under IC 25.

(2) The department of financial institutions.

(3) The securities division of the office of the secretary of state.

(4) The supreme court disciplinary commission, with respect to attorney misconduct.

(5) The housing and community development authority.

(6) The department of state revenue.

(7) The state police department.

(8) A prosecuting attorney.

(9) Local law enforcement agencies.

(10) The Indiana real estate commission.

(d) The commissioner may file a complaint with an entity specified in subsection (c) to enforce this chapter.

(e) This section does not limit the jurisdiction of an entity described in subsection (c).

Sec. 35. The commissioner may adopt rules under IC 4-22-2 to implement this chapter.

Sec. 36. (a) If the commissioner, after notice and hearing under IC 4-21.5, determines that a person has violated this chapter, the commissioner may:

(1) impose a civil penalty of not more than ten thousand dollars ($10,000) for each violation; and

(2) if the person is a title insurance agent, order revocation or suspension of the title insurance agent's license.

(b) If an order of rehabilitation or liquidation of a title insurer has been entered under IC 27-9, and:

(1) the receiver appointed under the order determines that a title insurance agent or another person has violated this chapter; and

(2) the title insurer has suffered a resulting loss or damage; the receiver may maintain a civil action for recovery of damages or other appropriate sanctions for the benefit of the title insurer and the title insurer's policyholders and creditors.

(c) This section does not:

(1) affect the right of the commissioner to impose another penalty under this title; or

(2) limit or restrict the rights of policyholders, claimants, or creditors.

Sec. 37. The commissioner or attorney general may bring an action in a court with jurisdiction to enjoin violations of the federal Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.)

(Reference is to ESB 349 as reprinted March 1, 2006.)

WALTZ	BURTON
MRVAN	MAHERN
Senate Conferees	House Conferees

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

ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS

Engrossed House Bill 1327–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report does not have to be on the members' desks for any specified time requirement, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1327–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report does not have to be on the members' desks for any specified time requirement, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1327–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 479: yeas 99, nays 0. Report adopted.

Engrossed House Bill 1172–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report does not have to be on the members' desks for any specified time requirement, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1172–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report does not have to be on the members' desks for any specified time requirement, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1172–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 480: yeas 75, nays 23. Report adopted.

Engrossed House Bill 1362–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report does not have to be on the members' desks for any specified time requirement, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1362–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report does not have to be on the members' desks for any specified time requirement, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1362–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 481: yeas 88, nays 8. Report adopted.

Engrossed Senate Bill 345–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report does not have to be on the members' desks for any specified time requirement, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 345–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report does not have to be on the members' desks for any specified time requirement, all so that the following conference committee report may be eligible to be placed before the

House for action: Engrossed Senate Bill 345–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 482: yeas 95, nays 0. Report adopted.

Engrossed Senate Bill 260–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report does not have to be on the members' desks for any specified time requirement, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 260–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report does not have to be on the members' desks for any specified time requirement, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 260–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 483: yeas 83, nays 15. Report adopted.

Engrossed House Bill 1315–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report does not have to be on the members' desks for any specified time requirement, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1315–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report does not have to be on the members' desks for any specified time requirement, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1315–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 484: yeas 83, nays 15. Report adopted.

Representative Buck was excused.

Engrossed House Bill 1240–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 3 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1240–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 3 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1240–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 485: yeas 94, nays 0. Report adopted.

Representative Whetstone was excused.

Engrossed House Bill 1329–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report does not have to be on the members' desks for any specified time requirement, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1329–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report does not have to be on the members' desks for any specified time requirement, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1329–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 486: yeas 93, nays 1. Report adopted.

Engrossed House Bill 1338–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report does not have to be on the members' desks for any specified time requirement, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1338–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration

after March 2 and that Rule 164.3 be suspended so that the following conference committee report does not have to be on the members' desks for any specified time requirement, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1338–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 487: yeas 94, nays 0. Report adopted.

Representative Buck, who had been excused, was present.

Engrossed Senate Bill 172–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 11 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 172–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report may be laid over on the members' desks for 11 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 172–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 488: yeas 97, nays 0. Report adopted.

Representative Whetstone, who had been excused, was present.

Engrossed Senate Bill 1–2

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report does not have to be on the members' desks for any specified time requirement, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 1–2.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report does not have to be on the members' desks for any specified time requirement, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 1–2.

WHETSTONE, Chair

Motion prevailed.

Representative Pelath rose to a point of order stating that custom in the House requires that language in a conference committee report must have passed one of the two houses and that the conference committee report 2 on Engrossed Senate Bill 1 contained new language not passed by either house.

The Speaker withdrew the conference committee report from further consideration.

Representative Bauer was excused.

Engrossed House Bill 1001–1

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 is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report does not have to be on the members' desks for any specified time requirement, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1001–1.

WHETSTONE, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report is eligible for consideration after March 2 and that Rule 164.3 be suspended so that the following conference committee report does not have to be on the members' desks for any specified time requirement, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1001–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 489: yeas 95, nays 1. 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 1102 because it conflicts with HEA 1114-2006 without properly recognizing the existence of HEA 1114-2006, has had Engrossed House Bill 1102 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1102 be corrected as follows:

In the conference committee report to EHB 1102-2006, page 46, line 24, after "IC 36-2-7-10" insert ", AS AMENDED BY HEA 1114-2006, SECTION 9,".

In the conference committee report to EHB 1102-2006, page 47, between lines 27 and 28, begin a new paragraph and insert:

"(c) The county recorder shall charge a two dollar ($2) county identification security protection fee for recording or filing a document. This fee shall be deposited under IC 36-2-7.5-6.".

In the conference committee report to EHB 1102-2006, page 47, line 28, delete "(c)" and insert "(d)".

In the conference committee report to EHB 1102-2006, page 47, line 35, delete "(d)" and insert "(e)".

In the conference committee report to EHB 1102-2006, page 47, line 37, delete "(e)" and insert "(f)".

In the conference committee report to EHB 1102-2006, page 47, line 40, delete "(f)" and insert "(g)".

In the conference committee report to EHB 1102-2006, page 47, line 51, delete "(g)" and insert "(h)".

(Reference is to EHB 1102 as reprinted February 28, 2006, and as corrected under Senate rule 33(c) adopted March 1, 2006, and as amended by the conference committee report to EHB 1102.)

WHETSTONE, Chair
PELATH, R.M.M.
AYRES, Author

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed House Bill 1155 because it conflicts with SEA 132-2006 without properly recognizing the existence of SEA 132-2006, has had Engrossed House Bill 1155 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1155 be corrected as follows:

In the conference committee report to EHB 1155-2006, page 3, line 46, delete "P.L.234-2005," and insert "SEA 132-2006, SECTION 27,".

In the conference committee report to EHB 1155-2006, page 3, line 47, delete "SECTION 9,".

In the conference committee report to EHB 1155-2006, page 4, line 20, delete "IC 31-33-1.5-2)" and insert "IC 31-25-1-1)".

In the conference committee report to EHB 1155-2006, page 4, line 31, delete "division of family and children;" and insert "department of child services;".

In the conference committee report to EHB 1155-2006, page 5, line 13, after "IC 10-13-3-30" insert ", AS AMENDED BY SEA 132-2006, SECTION 29,".

In the conference committee report to EHB 1155-2006, page 5, line 27, delete "division of" and insert "department of child services.".

In the conference committee report to EHB 1155-2006, page 5, delete line 28.

In the conference committee report to EHB 1155-2006, page 7, line 23, delete "IC 11-8-2-12" and insert "IC 11-8-2-12.4".

In the conference committee report to EHB 1155-2006, page 7, line 25, delete "12." and insert "**12.4.**".

In the conference committee report to EHB 1155-2006, page 7, line 50, delete "12" and insert "**12.4**".

(Reference is to EHB 1155 as reprinted March 1, 2006, and as amended by the conference committee report to EHB 1155.)

WHETSTONE, Chair
PELATH, R.M.M.
BUDAK, Author

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed House Bill 1235 because it conflicts with HEA 1395-2006 without properly recognizing the existence of HEA 1395-2006, has had Engrossed House Bill 1235 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1235 be corrected as follows:

In the conference committee report to EHB 1235-2006, page 2, line 30, delete "P.L.184-2005," and insert "HEA 1395-2006,".

In the conference committee report to EHB 1235-2006, page 2, line 31, delete "34," and insert "4".

In the conference committee report to EHB 1235-2006, page 2, between lines 49 and 50, begin a new paragraph and insert:

"(e) A change of venue from a judge must meet the requirements in IC 34-35-3-3 for court proceedings initiated under this section.".

(Reference is to EHB 1235 as reprinted February 28, 2006, and as amended by the conference committee report to EHB 1235.)

WHETSTONE, Chair
PELATH, R.M.M.
RUPPEL, Author

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 12 because it conflicts with SEA 132-2006 without properly recognizing the existence of SEA 132-2006, has had Engrossed Senate Bill 12 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 12 be corrected as follows:

In the conference committee report to ESB 12-2006, page 3, line 45, delete "P.L.234-2005" and insert "SEA 132-2006, SECTION 27,".

In the conference committee report to ESB 12-2006, page 3, line 46, delete "SECTION 9,".

In the conference committee report to ESB 12-2006, page 4, line 19, delete "IC 31-33-1.5-2)" and insert "IC 31-25-1-1)".

In the conference committee report to ESB 12-2006, page 4, line 30, delete "division of family and children;" and insert "department of child services;".

In the conference committee report to ESB 12-2006, page 5, line 12, after "IC 10-13-3-30" insert ", AS AMENDED BY SEA 132-2006, SECTION 29,".

In the conference committee report to ESB 12-2006, page 5, line 26, delete "division of" and insert "department of child services.".

In the conference committee report to ESB 12-2006, page 5, delete line 27.

In the conference committee report to ESB 12-2006, page 7, line 22, delete "IC 11-8-2-12" and insert "IC 11-8-2-12.4".

In the conference committee report to ESB 12-2006, page 7, line 24, delete "12." and insert "**12.4.**".

In the conference committee report to ESB 12-2006, page 7, line 49, delete "12" and insert "**12.4**".

(Reference is to ESB 12 as reprinted February 24, 2006, and as amended by the conference committee report to ESB 12.)

WHETSTONE, Chair
PELATH, R.M.M.
FOLEY, Sponsor

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 47 because it conflicts with SEA 132-2006 without properly recognizing the existence of SEA 132-2006, has had Engrossed Senate Bill 47 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 47 be corrected as follows:

In the conference committee report to ESB 47-2006, page 1, line 2, delete "P.L.177-2005," and insert "SEA 132-2006,".

In the conference committee report to ESB 47-2006, page 2, line 5, delete "division of family and children" and insert "department of child services".

In the conference committee report to ESB 47-2006, page 2, line 6, delete "a county office of family and children" and insert "the division of family resources".

In the conference committee report to ESB 47-2006, page 2, line 8, delete "IC 12-17.4." and insert "IC 31-27.".

In the conference committee report to ESB 47-2006, page 2, line 30, delete "health".

In the conference committee report to ESB 47-2006, page 2, line 31, delete "professions bureau".

In the conference committee report to ESB 47-2006, page 2, line 31, reset in roman "Indiana professional licensing agency".

(Reference is to ESB 47 as reprinted February 24, 2006, and as amended by the conference committee report to ESB 47.)

WHETSTONE, Chair
PELATH, R.M.M.
McCLAIN, Sponsor

Report adopted.

RESOLUTIONS ON FIRST READING

House Resolution 103

Representative Bauer introduced House Resolution 103:

A HOUSE RESOLUTION honoring Representative Ben GiaQuinta.

Whereas, The Indiana House of Representatives will be losing a valuable and integral part of the family with the retirement of Representative Ben GiaQuinta;

Whereas, Representative GiaQuinta has been a member of the

Indiana House of Representatives from 1990-1994 and again from 1996-2006;

Whereas, Representative GiaQuinta is the only World War II veteran in the House of Representatives, and his service to his country speaks volumes for his character;

Whereas, Representative GiaQuinta has served the constituency of House District 80 to the best of his ability, serving on the Courts and Criminal Code, Public Policy, Ethics and Veterans Affairs, and Ways and Means Committees;

Whereas, Representative GiaQuinta is also a member of the American Institute of Parliamentarians, the National Association of Realtors, the Indiana Association of Realtors, the Fort Wayne Area Association of Realtors, Toastmasters International, American Legion Post 296, and the Wayne Township Advisory Board;

Whereas, Representative GiaQuinta received a Bachelor of Arts degree from Louisiana State University; and

Whereas, The retirement of Representative Ben GiaQuinta will be a sad day for his legislative family and his constituents: 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 thanks Representative Ben GiaQuinta for his years of dedicated and honorable service to his constituency and the state of Indiana and wishes him happiness and contentment in his retirement.

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

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

House Resolution 104

Representative Bauer introduced House Resolution 104:

A HOUSE RESOLUTION honoring Representative Tom Kromkowski.

Whereas, The Indiana House of Representatives will be losing a valued family member with the retirement of Representative Tom Kromkowski;

Whereas, Representative Kromkowski has been a member of the Indiana House of Representatives since 1980;

Whereas, Representative Kromkowski served his country honorably in the United States Army and is a veteran of Vietnam;

Whereas, Representative Kromkowski has served the constituency of House District 7 to the best of his ability, serving on the Elections, Interstate and International Cooperation, and Labor and Employment Committees;

Whereas, Representative Kromkowski is also a member of the VFW, the M.R. Polish Falcons of America, the Westside Democratic and Civic Club of South Bend, and serves as Chairman of the United Auto Workers of St. Joseph-LaPorte County C.A.P. Council;

Whereas, Representative Kromkowski is a member of St. John the Baptist Catholic Church; and

Whereas, The retirement of Representative Tom Kromkowski will be a sad day for his legislative family and his constituents: 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 thanks Representative Tom Kromkowski for his years of dedicated and honorable service to his constituency and the state of Indiana and wishes him happiness and contentment in his retirement.

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

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

House Resolution 105

Representative Bauer introduced House Resolution 105:

A HOUSE RESOLUTION honoring Representative John Aguilera.

Whereas, The Indiana House of Representatives will be losing a valued member of the family with the retirement of Representative John Aguilera;

Whereas, Representative Aguilera has been a member of the Indiana House of Representatives since 2000;

Whereas, Representative Aguilera has served the constituency of House District 12 to the best of his ability, serving on the Local Government, Road and Transportation, and Ways and Means Committees;

Whereas, Before becoming a member of the Indiana House of Representatives, Representative Aguilera served on the Lake County Council;

Whereas, Representative Aguilera is also a member of the Boys and Girls Club, United Way, and the Hispanic Coordinating Council;

Whereas, Representative Aguilera attended Calumet College of St. Joseph and the University of Indianapolis;

Whereas, Representative Aguilera is a member of St. Mary's and St. Stenisleus Catholic Churches; and

Whereas, The retirement of Representative John Aguilera will be a sad day for his legislative family and his constituents: 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 thanks Representative John Aguilera for his years of dedicated and honorable service to his constituency and the state of Indiana and wishes him happiness and contentment in his retirement.

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

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

House Resolution 106

Representative Bosma introduced House Resolution 106:

A HOUSE RESOLUTION to honor Representative Robert Hoffman upon his retirement and to recognize his distinguished service to the people of House District 55 and the state of Indiana during his ten year tenure in the House of Representatives.

Whereas, Robert Hoffman became a state legislator after being the vocational director at Connersville Area Vocational School for 30 years;

Whereas, Robert Hoffman received his bachelor of science degree from Indiana State University and his master of science degree in vocational administration from Indiana State University;

Whereas, Robert Hoffman began his service in the General Assembly in 1996, becoming known for all time as the senior member of the "six-pack";

Whereas, Robert Hoffman has served his community as past president of Leadership Fayette County, chairman of Bethany Lutheran Church, past president of the Fayette Memorial Hospital Board, 1993 chairman of the Indiana Association of Area Vocational School Districts, Indiana Council of Vocational Directors, and a member of the Advisory Board of Purdue University-East, the Connersville Economic Development Committee, the County Extension Board, the Workforce Development Committee, and the Connersville Chamber of Commerce. He also won the Small Business Champion award of the Indiana Chamber Small Business Council, was elected to the Fayette County School Corporation Education Hall of Fame as a Master Educator, was named a Kentucky Colonel in 1989, and is director emeritus of Connersville Area Vocational School;

Whereas, Robert Hoffman is a true renaissance man, taking time to enjoy hunting wild game and fishing;

Whereas, Representative Hoffman has exhibited culinary expertise ranging from hog roasting to preparing souffles;

Whereas, Those who are invited to partake in his hospitality might dine on the vegetables grown in his garden, the fish he caught, or the fowl that he hunted and possibly even raised from birth;

Whereas, Robert Hoffman is not only a great chef in the finest French tradition but also an extraordinary sommelier and enologist, who offers the wine that he makes and, sometime in the future, may be serving it on a table with chairs that he is crafting by hand;

Whereas, Hoffman "The Fearless" is never afraid to try anything once, including attempting to make homemade caviar and inventing the chimney-top turkey roaster;

Whereas, Representative Hoffman has worn his elected position as a comfortable extension of his adventuresome aura;

Whereas, Robert Hoffman has served on the Committees on Education, Insurance, Financial Institutions, and Natural Resources with great personal interest and distinction;

Whereas, During his tenure as Chairman of the Committee on Natural Resources, Robert Hoffman worked to pass legislation to protect and sustain our valuable state parks, forests, and farmland and single-handedly made the most out of Groundhog Day by passing legislation to protect and manage the mighty groundhog;

Whereas, Representative Hoffman championed education issues and supported the work and goals of Indiana's teachers;

Whereas, Robert Hoffman served the residents of House District 55, which includes parts of Fayette, Union, Franklin, Wayne, and Dearborn counties;

Whereas, Robert and his wife, Phyllis, have three grown children, Dr. Loraine Phillips, Ben Hoffman, and Dr. Ann Wieman, and five grandchildren, Joe, Rob, Marty, Hollie, and Max;

Whereas, Robert Hoffman is undoubtedly a man of many exceptional creative gifts and abilities, and we are thankful for his years of service in the House of Representatives; and

Whereas, Robert Hoffman will be dearly 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 members of the Indiana House of Representatives bid their colleague a fond farewell and wish him health, happiness, and continued success in all his future endeavors.

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

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

House Resolution 107

Representative Bosma introduced House Resolution 107:

A HOUSE RESOLUTION to honor Representative Luke Messer upon his retirement and recognize his distinguished service to the people of House District 57 and the State of Indiana during his tenure in the House of Representatives.

Whereas, Luke Messer served two terms as a State Representative for House District 57, representing Shelby and Bartholomew Counties;

Whereas, Luke Messer graduated from Wabash College, where he was affectionately referred to as "Wally Wabash";

Whereas, Luke Messer received his law degree from Vanderbilt University School of Law;

Whereas, Luke Messer is the proud husband to wife, Jennifer and father to daughters, Emma and Ava;

Whereas, Sometimes Luke Messer's day job, Executive Director of the Indiana Republican Party, at times was a challenge to both the Democrat and Republican caucuses;

Whereas, It could be said that Representative Messer was easier to find in the hallway on his cell phone rather than in the House Chamber during session;

Whereas, Luke Messer has always been, is now and always will be 15 to 20 minutes late;

Whereas, Representative Messer worked tirelessly on education issues such as high school graduation rates and early childhood education;

Whereas, Representative Messer always brought passion to the debate on the House floor and we recognize his contribution to the State of Indiana with his service and sacrifices;

Whereas, Luke Messer will be genuinely missed, and never forgotten, by his colleagues and the staff in the Indiana General Assembly; and

Whereas, those who have had the privilege of working for and with Representative Messer know what a true honor that time has been and wish him the best of luck in future endeavors: 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 Luke Messer upon his retirement and recognizes his distinguished service to the people of District 57 and the State of Indiana during his four year tenure in the House of Representatives.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Luke Messer.

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

House Resolution 108

Representative Bosma introduced House Resolution 108:

A HOUSE RESOLUTION to honor Representative David Yount upon his retirement and recognize his distinguished service to the people of House District 59 and the State of Indiana during his ten year tenure in the Indiana House of Representatives.

Whereas, David Yount was first elected to the General Assembly in 1996, as part of the class affectionately known as the "Six Pack";

Whereas, David Yount served as Republican Whip, Assistant Republican Floor Leader, Assistant Republican Caucus Chairman, and Assistant Republican Whip;

Whereas, The House Republican Class of 1996 is affectionately referred to as the "Six Pack" and Representative Yount's fellow class members include: Representative Hoffman, Representative Ripley, Representative Saunders, Representative Torr, and Representative Whetstone;

Whereas, David Yount was born in Columbus, Indiana, and attended Columbus East High School;

Whereas, David Yount graduated from Indiana University, Bloomington in 1984;

Whereas, David Yount is married to his beautiful wife Carol and they have two children, David and Abby;

Whereas, David Yount served as President of the Columbus Enterprise Development Corporation from 1991-2000;

Whereas, Representative Yount believed that in order to be an effective leader and accountable to constituents one must be able to explain their vote to the folks back home;

Whereas, Representative Yount assisted in crafting Indiana's "Do Not Call" list in 2001, one of the most popular consumer measures ever passed by the Indiana House of Representatives;

Whereas, Representative Yount's expertise and knowledge in the area of economic development proved to be a valuable asset to both his caucus and the Indiana House of Representatives;

Whereas, David Yount's special interest was in helping senior citizens in his district;

Whereas, David Yount had a quiet, good-natured manner, and his gentleman's demeanor allowed him to get issues resolved;

Whereas, Representative Yount always carried himself with professionalism and his character earned respect from both sides of the aisle;

Whereas, David Yount's knowledge of Indiana history and politics is amazing and this interest has led to an impressive political memorabilia collection;

Whereas, David Yount is otherwise known as the "King of eBay" and surfs the Internet like a race car driver zooms around the track;

Whereas, "The Workingman's Friend" may go out of business without his patronage;

Whereas, David Yount will be moving to Indianapolis from Columbus soon. Columbus' loss is Indianapolis' gain; and

Whereas, David Yount will be truly missed by his colleagues and staff in the Indiana House of Representatives: 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 David Yount upon his retirement and recognizes his distinguished service to the people of District 59 and the State of Indiana during his ten-year tenure in the House of Representatives.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to David Yount.

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

Senate Concurrent Resolution 68

The Speaker handed down Senate Concurrent Resolution 68, sponsored by Representatives Bosma and Bauer:

A CONCURRENT RESOLUTION fixing the date for the Second Regular Technical Session of the General Assembly.

Whereas, IC 2-2.1-1-2.5 authorizes the General Assembly to fix a date for the Second Regular Technical Session of the General Assembly;

Whereas, The General Assembly finds that it is in the best interest of the State of Indiana to fix a date for the Technical Session; and

Whereas, It is prudent to allow the Speaker of the House of Representatives and the President Pro Tempore of the Senate to jointly order that the Technical Session not convene if they determined its cost and inconvenience do not justify meeting in Technical Session: Now, therefore,

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

SECTION 1. The date for the Technical Session of the General Assembly is hereby fixed for April 19, 2006, at 1:30 pm.

SECTION 2. The Speaker of the House of Representatives and the President Pro Tempore of the Senate may issue a joint order that the General Assembly not convene in Technical Session if they determined that the cost and inconvenience of meeting in Technical Session are not justified.

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.

RESOLUTIONS ON SECOND READING

House Resolution 73

The Speaker handed down on its passage House Resolution 73, introduced by Representatives Turner, Mays, and Murphy:

A HOUSE RESOLUTION urging the establishment of an interim study committee to study restraint on trade of contact lenses.

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

House Resolution 88

The Speaker handed down on its passage House Resolution 88, introduced by Representatives Thompson and Walorski:

A HOUSE RESOLUTION urging the establishment of an interim study committee to study the social, emotional, and behavioral health screening of children.

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

ENROLLED ACTS SIGNED

The Speaker announced that he had signed House Enrolled Acts 1117, 1176, 1227, 1257, 1353, and 1420 and Senate Enrolled Acts 22, 42, 100, 112, 145, 157, 161, 231, 234, 235, 247, 266, 269, 283, 297, 300, 305, 321, 338, 339, 353, 369, 379, and 382 on March 14.

The Speaker announced that Lieutenant Governor Skillman had signed House Enrolled Acts 1013, 1017, 1022, 1024, 1028, 1089, 1097, 1101, 1108, 1112, 1113, 1117, 1123, 1124, 1136, 1138, 1150, 1156, 1207, 1236, 1238, 1239, 1257, 1280, 1281, 1285, 1300, 1306, 1307, 1353, 1368, 1395, 1397, and 1418 on March 14.

OTHER BUSINESS ON THE SPEAKER'S TABLE

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report 1 on Engrossed House Bill 1001.

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 1 on Engrossed House Bills 1008, 1315, 1327, and 1362.

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 1 on Engrossed House Bills 1110, 1214, 1235, 1240, and 1380.

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 1 on Engrossed Senate Bills 87 and 303.

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 1 on Engrossed Senate Bills 148, 260, and 345.

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 Governor has this 14th day of March, 2006, approved Senate Enrolled Acts 56, 57, 72, 73, 81, 85, 86, 94, 133, 208, 229, and 275 and Enrolled Senate Joint Resolution 2 and the same have been deposited with the Secretary of State.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolutions 49 and 64 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the adoption of House Resolution 1, Roll Call 214, on February 13, 2006. In support of this petition, I submit the following reason:

"Because the House seldom has roll call votes on resolution and since three of my four grandchildren were present at the State House,

I was away from my desk and was unable to vote. I respectfully ask to be recorded as voting yea on House Resolution 1."

FRY

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 the adoption of House Resolution 1, Roll Call 214, on February 13, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yea."

PFLUM

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: adoption of the petitions of Representative Fry and Pflum changes the vote tally for Roll Call 214 to 85 yeas, 0 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the concurrence on Engrossed House Bill 1006, Roll Call 477, on March 14, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote nay."

DAY

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 the concurrence on Engrossed House Bill 1006, Roll Call 477, on March 14, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote nay."

HOY

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: adoption of the petitions of Representatives Day and Hoy changes the vote tally for Roll Call 477 to 51 yeas, 47 nays.*]

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 1022, Roll Call 379, on March 6, 2006. In support of this petition, I submit the following reason:

"I was present and in my seat, but when I attempted to vote, the machine failed to record my vote. I intended to vote yea."

DAVIS

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 379 to 91 yeas, 6 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 1099, Roll Call 454, on March 14, 2006. In support of this petition, I submit the following reason:

"I was unable to record my vote before the voting period was closed. I intended to vote nay."

HEIM

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 1099, Roll Call 454, on March 14, 2006. In support of this petition, I submit the following reason:

"I was present and in my seat, but I was unable to record my vote before the voting period was closed. I intended to vote nay."

WALORSKI

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: adoption of the petitions of Representatives Heim and Walorski changes the vote tally for Roll Call 454 to 59 yeas, 35 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 1102, Roll Call 443, on March 13, 2006. 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 yea button when I intended to vote nay."

MAYS

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 443 to 72 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 concurrence on Engrossed House Bill 1108, Roll Call 403, on March 8, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yea."

RESKE

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 the concurrence on Engrossed House Bill 1108, Roll Call 403, on March 8, 2006. In support of this petition, I submit the following reason:

"I was present in a conference committee meeting during the roll call. I intended to vote yea."

VAN HAAFTEN

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: adoption of the petitions of Representatives Reske and VanHaaften changes the vote tally for Roll Call 403 to 86 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 1117, Roll Call 426, on March 13, 2006. In support of this petition, I submit the following reason:

"I was present in the Senate, conducting legislative business. I intended to vote yea."

KLINKER

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 426 to 95 yeas, 2 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 1155, Roll Call 456, on March 14, 2006. In support of this petition, I submit the following reason:

"I was off the Chamber floor in a meeting. I intended to vote yea."

AUSTIN

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 456 to 88 yeas, 0 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Bill 1156, Roll Call 156, on February 1, 2006. 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."

KOCH

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 156 to 78 yeas, 19 nays.*]

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 1220, Roll Call 425, on March 13, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yea."

AUSTIN

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 the concurrence on Engrossed House Bill1220, Roll Call 425, on March 13, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, I inadvertently pushed the yea button when I intended to vote nay."

TYLER

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: adoption of the petitions of Representatives Austin and Tyler changes the vote tally for Roll Call 425 to 70 yeas, 20 nays.*]

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 1232, Roll Call 389, on March 6, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yea."

KUZMAN

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 389 to 95 yeas, 0 nays.*]

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 1236, Roll Call 390, on March 6, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yea."

KUZMAN

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 390 to 95 yeas, 0 nays.*]

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 1238, Roll Call 391, on March 6, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yeas."

KUZMAN

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 391 to 95 yeas, 0 nays.*]

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 1285, Roll Call 405, on March 8, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yea."

HOY

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 405 to 87 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 1362, Roll Call 481, on March 14, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote nay."

DVORAK

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 481 to 88 yeas, 8 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 6, Roll Call 285, on February 28, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yea."

STEVENSON

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 285 to 95 yeas, 0 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 22, Roll Call 308, on March 1, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yea."

DVORAK

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 308 to 91 yeas, 0 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on Representative Burton's second reading amendment 3 to Engrossed Senate Bill 27, Roll Call 347, on March 1, 2006. 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."

TYLER

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 347 to 50 yeas, 44 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on conference committee report 1 on Engrossed Senate Bill 47, Roll Call 461, on March 14, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. 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: this changes the vote tally for Roll Call 461 to 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 the third reading of Engrossed Senate Bill 77, Roll Call 239, on February 23, 2006. 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 yea button when I intended to vote nay."

GRUBB

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 239 to 79 yeas, 18 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on conference committee report 1 on Engrossed Senate Bill 87, Roll Call 463, on March 14, 2006. In support of this petition, I submit the following reason:

"I was temporarily not on the floor and was unable to reach my voting machine in time. I intended to vote nay."

BRIGHT

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 463 to 92 yeas, 1 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 94, Roll Call 296, on February 28, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yea."

L. LAWSON

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 296 to 92 yeas, 0 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 111, Roll Call 297, on February 28, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yeas."

BARDON

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 297 to 72 yeas, 24 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 117, Roll Call 373, on March 2, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote nay."

GOODIN

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 373 to 51 yeas, 47 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on conference committee report 1 on Engrossed Senate Bill 139, Roll Call 464, on March 14, 2006. In support of this petition, I submit the following reason:

"I was temporarily not on the floor and was unable to reach my voting machine in time. I intended to vote nay."

BRIGHT

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 464 to 92 yeas, 1 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 148, Roll Call 314, on March 1, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yea."

DAY

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 314 to 56 yeas, 37 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on conference committee report 1 on Engrossed Senate Bill 148, Roll Call 475, on March 14, 2006. 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 yea button when I intended to vote nay."

BORDERS

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 475 to 55 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 Senate Bill 258, Roll Call 438, on March 13, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yeas."

L. LAWSON

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 438 to 85 yeas, 11 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on conference committee report 1 on Engrossed Senate Bill 259, Roll Call 465, on March 14, 2006. In

support of this petition, I submit the following reason:

"I was temporarily away from my desk and was unable to reach my voting machine in time to cast my vote. I intended to vote yea."

CROUCH

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 465 to 87 yeas, 7 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on conference committee report 1 on Engrossed Senate Bill 260, Roll Call 483, on March 14, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yeas."

MAYS

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 483 to 83 yeas, 15 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 269, Roll Call 258, on February 27, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yeas."

HOY

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 258 to 81 yeas, 10 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 308, Roll Call 368, on March 2, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yeas."

BARDON

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 368 to 97 yeas,* 0 nays.*]*

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 321, Roll Call 367, on March 2, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yeas."

WELCH

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 367 to 60 yeas, 37 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 332, Roll Call 253, on February 27, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yea."

AUSTIN

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 253 to 91 yeas, 0 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 333, Roll Call 366, on March 2, 2006. In support of this petition, I submit the following reason:

"I was temporarily away from my desk and failed to reach my voting machine in time to cast my vote. I intended to vote yea."

BEHNING

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 366 to 92 yeas, 2 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 340, Roll Call 364, on March 2, 2006. In support of this petition, I submit the following reason:

"I was not present and in my seat. I intended to vote yea."

TYLER

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 364 to 95 yeas, 0 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the ruling of the Chair concerning a second reading amendment to Engrossed Senate Bill 359, Roll Call 266, on February 27, 2006. 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 yea button when I intended to vote nay."

MAYS

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 266 to 50 yeas, 43 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on conference committee report 1 on Engrossed Senate Bill 359, Roll Call 431, on March 13, 2006. In support of this petition, I submit the following reason:

"I was present in my seat and voted yea, when I intended to abstain from voting."

RESKE

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 431 to 87 yeas, 6 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate Bill 362, Roll Call 356, on March 2, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yea."

L. LAWSON

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 356 to 97 yeas, 0 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed Senate

Bill 382, Roll Call 352, on March 2, 2006. In support of this petition, I submit the following reason:

"I was present and in the chamber, but when I attempted to vote, the machine had closed. I intended to vote yea."

TYLER

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 352 to 91 yeas, 6 nays.*]

HOUSE MOTION

Mr. Speaker: I move that the House reconsider language adopted in House Resolution 1 to reflect the following change: "Whereas, During the past session of the General Assembly the invocation was offered by clerics representing the Catholic, **Protestant**, Jewish, and Muslim faiths as well as those with no formal religious affiliations".

WHETSTONE

Motion prevailed.

ADJOURNMENT OF THE SECOND REGULAR SESSION

HOUSE MOTION

Mr. Speaker: I move that all requests for interim studies, including those made by concurrent 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.

FRIEND

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.

FRIEND

Motion prevailed. The Speaker appointed Representatives Yount, Hoffman, Tyler, and C. Bottorff.

COMMITTEE REPORT

Mr. Speaker: Your Committee which was appointed by the Speaker to ascertain whether the Senate has further legislative business to transact hereby reports that your committee has waited upon the Senate and that the Senate has no further legislative business to transact with the House of Representatives.

YOUNT HOFFMAN
TYLER C. BOTTORFF

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 communication to make to the House of Representatives.

FRIEND

Motion prevailed. The Speaker appointed Representatives Messer, Wolkins, Kromkowski, and GiaQuinta.

COMMITTEE REPORT

Mr. Speaker: Your Committee which was appointed to confer with the Governor to ascertain whether or not he has any further communications to make to the House of Representatives hereby reports that your committee has waited upon the Governor and that the Governor has no further communications to make to the House of Representatives.

MESSER WOLKINS
KROMKOWSKI GIA QUINTA

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 notify the Senate that the House of Representatives has completed its business and is ready to adjourn.

FRIEND

Motion prevailed. The Speaker appointed Representatives Walorski, Borror, Aguilera, and Fry.

COMMITTEE REPORT

Mr. Speaker: Your Committee appointed to notify the Senate that the House of Representatives has completed its business and is ready to adjourn reports that it has notified the Senate of the message of the House of Representatives.

WALORSKI BORROR
AGUILERA FRY

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 notify the Governor that the House of Representatives has completed its business and is ready to adjourn.

FRIEND

Motion prevailed. The Speaker appointed Representatives Whetstone, T. Brown, Orentlicher, and Crooks.

COMMITTEE REPORT

Mr. Speaker: Your Committee appointed to notify the Governor that the House of Representatives has completed its business and is ready to adjourn hereby reports that it has notified the Governor of the message of the House of Representatives.

WHETSTONE T. BROWN
ORENTLICHER CROOKS

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 Becker and L. Lutz 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 Harrison and Craycraft 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 114th Indiana General Assembly *sine die* at 11:59 p.m. on the fourteenth day of March, 2006.

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 114th General Assembly do now adjourn *sine die* at 11:59 p.m., this fourteenth day of March, 2006.

GIA QUINTA

Motion prevailed. The House adjourned *sine die*.

BRIAN C. BOSMA
Speaker of the House of Representatives

M. CAROLINE SPOTTS
Principal Clerk of the House of Representatives