The House convened at 10:00 a.m. with Speaker Brian C. Bosma in the Chair.

The Pledge of Allegiance to the Flag was led by Representative Ralph M. Foley.

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

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

Roll Call 424: 98 present; 2 excused. The Speaker announced a quorum in attendance. [NOTE: indicates those who were excused.]

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the President Pro Tempore of the Senate has appointed the following Senators a conference committee to confer on Engrossed House Bill 1329:

Conferees: Miller and Sipes

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 1080:

Conferees: Hershman and Hum  
Advisors: Wyss and Rogers

MARY C. MENDEL  
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I hereby transmit Senate Enrolled Act 283 for signature of the Speaker of the House.

MARY C. MENDEL  
Principal Secretary of the Senate

Roll Call 424: 98 present; 2 excused. The Speaker announced a quorum in attendance. [NOTE: indicates those who were excused.]
MESSAGE FROM THE SENATE
Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Joint Rule 20 correction on Engrossed House Bill 1128.

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 1347.

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 379.

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 39 and 60 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

ENROLLED ACTS SIGNED
The Speaker announced that he had signed House Enrolled Acts 1017, 1022, 1028, 1097, 1106, 1112, 1113, 1124, 1136, 1156, 1207, 1232, 1236, 1238, 1300, 1368, 1395, 1397, and 1418 and Senate Enrolled Acts 11, 35, 40, 55, 57, 71, 102, 111, 114, 147, 160, 206, 264, 310, 342, and 354 on March 9.

The Speaker announced that Lieutenant Governor Skillman had signed House Enrolled Acts 1023, 1049, 1065, 1103, 1107, 1134, 1234, 1249, 1279, 1286, 1299, and 1331 on March 9.

The Speaker announced that he had signed House Enrolled Act 1013, 1024, 1089, 1108, 1150, and 1280 on March 10.

The Speaker announced that Lieutenant Governor Skillman had signed House Enrolled Acts 1093, 1314, and 1339 on March 10.

CONFERENCE COMMITTEE REPORTS
CONFERENCE COMMITTEE REPORT
EHB 1117–1; filed March 9, 2006, at 10:11 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 1117 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:
Replace the effective dates in SECTIONS 8 through 9 with "[EFFECTIVE UPON PASSAGE]"
Page 5, line 1, delete "June 30," and insert "March 1."

(WOLKINS GARD
DVORAK HUME
House Conferees Senate Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1010–1; filed March 9, 2006, at 11:58 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 1010 respectfully reports that said two committee have conferred and agreed as follows to wit:
that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:
Delete everything after the enacting clause and insert the following:
SECTION 1. IC 22-13-2-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A state agency or political subdivision may not require that a lawfully erected sign be removed or altered as a condition of issuing:
(1) a permit;
(2) a license;
(3) a variance; or
(4) any other order concerning land use or development;
unless the owner of the sign is compensated in accordance with IC 32-24 or has waived the right to and receipt of damages in writing.

SECTION 2. IC 23-14-60-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) If:
(1) any number of persons have:
(A) acted together as an association or corporation;
(B) acquired, as an association or corporation, land for cemetery purposes;
(C) sold and granted to persons the right to bury the dead in lots located on the land; and
(D) actually managed and controlled the land as a cemetery for at least thirty (30) years; but
(2) the organization that the persons attempted to establish as a corporation or cemetery association is defective and incomplete because of a failure to comply with the formalities required by law in force at some time since the original parties first assumed to act as an association or corporation;
the owners of the right to bury the dead on lots in the cemetery and those who may acquire the right become and continue to be a cemetery association or corporation from March 14, 1913.
(b) the owners of the right to bury the dead on lots in a cemetery referred to in subsection (a) have all the rights and powers of a cemetery association or corporation organized under this article, IC 23-1, or IC 23-17, including the power of eminent domain under IC 32-24-1.

SECTION 3. IC 23-14-75-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to the following:
(+): A:
(A) city;
(B) town;
(C) corporation or association;
(D) another owner;
that owns or controls a public cemetery that has been in existence for at least thirty (30) years:
(2) A:
(A) city; town; or township;
(B) corporation or association;
(3) other owners;
that owns a cemetery that has been in existence for at least thirty (30) years;
that desires to own a public cemetery.

SECTION 4. IC 23-14-75-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. If land has not been appropriated or set apart by the owners by platting for a public cemetery and it is necessary to purchase real estate for the cemetery:
that the legislative body of the city or town;
(2) the executive of the township;
(3) the trustees or directors of the corporation or association;
(4) the other owners;
have has the power of eminent domain to condemn and appropriate
the land for cemetery purposes under proceedings provided by statute.

SECTION 5. IC 32-24-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Any person that may exercise the power of eminent domain for any public use under any statute may exercise the power only in the manner provided in this article, except as otherwise provided by law.

(b) Before proceeding to condemn, the person:
(1) may enter upon any land to examine and survey the property sought to be acquired; and
(2) must make an effort to purchase for the use intended the land, right-of-way, easement, or other interest, in the property.

(c) The offer to purchase under subsection (b)(2) must include the following:
(1) Establishing a proposed purchase price for the property.
(2) Providing the owner of the property with an appraisal or other evidence used to establish the proposed purchase price.
(3) Conducting good faith negotiations with the owner of the property.

(d) If the land or interest in the land, or property or right is owned by a person who is an incapacitated person (as defined in IC 29-3-1-7.5) or less than eighteen (18) years of age, the person seeking to acquire the property may purchase the property from the guardian of the incapacitated person or person less than eighteen (18) years of age. If the purchase is approved by the court appointing the guardian and the approval is written upon the face of the deed, the conveyance of the property purchased and the deed made and approved by the court are valid and binding upon the incapacitated person or persons less than eighteen (18) years of age.

(e) The deed given, when executed instead of condemnation, conveys only the interest stated in the deed.

(f) If property is taken by proceedings under this article, the entire fee simple title may be taken and acquired. The property is taken for any purpose other than a right-of-way.

SECTION 6. IC 32-24-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) As a condition precedent to filing a complaint in condemnation, and except for an action brought under IC 8-1-13-19 (repealed), a condemning party may enter upon the property as provided in this chapter and must, at least thirty (30) days before filing a complaint, make an offer to purchase the property in the form prescribed in subsection (c). The offer must be served personally or by certified mail upon:
(1) the owner of the property sought to be acquired; or
(2) the owner's designated representative.

(b) If the offer cannot be served personally or by certified mail, or if the owner or the owner's designated representative cannot be found, notice of the offer shall be given by publication in a newspaper of general circulation in the county in which the property is located or in the county where the owner was last known to reside. The notice must be in the following form:
TO: _____________________.
NOTICE
for a ______________________ (condemnor) needs your property (description of project), and will need to acquire the following from you:

(______) (owner(s)),

(______) (condemnor) is legally entitled to immediate possession of the (property) (easement). You may, subject to the approval of the court, make withdrawals from the amount deposited with the court. Your withdrawal will in no way affect the proceedings of your case in court, except that, if the final judgment awarded you is less than the withdrawal you have made from the amount deposited, you will be required to pay back to the court the amount of the withdrawal in excess of the amount of the final judgment.

9. The trial will decide the full amount of damages you are to receive. Both of us will be entitled to present legal evidence supporting our opinions of the fair market value of the property or easement. The court's decision may be more or less than this offer. You may employ, at your cost, appraisers and attorneys to represent you at this time or at any time during the course of the proceeding described in this notice. (The condemning party may insert here any other information pertinent to this offer or required by circumstances or law).

10. If you have any questions concerning this matter you may contact us at:
of eminent domain for the same project or a substantially similar project for at least three (3) years after the date the two (2) year period described in subsection (b) expires.

SECTION 8. IC 32-24-1-5.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.8. (a) This section applies only to:
(1) the Indiana department of transportation when the department seeks to acquire a parcel of land or a property right for the construction, reconstruction, improvement, maintenance, or repair of a:
   (A) state highway; or
   (B) toll road project or toll bridge; and
(2) any other person that may exercise the power of eminent domain when the person seeks to acquire a parcel of land or a property right for the construction, reconstruction, improvement, maintenance, or repair of a feeder road for an Indiana department of transportation project described in subdivision (1) if the construction, reconstruction, improvement, maintenance, or repair of the feeder road begins not later than five (5) years from the conclusion of the project.

(b) If:
(1) the Indiana department of transportation or other person described in subsection (a)(2) submits a written acquisition offer to the owner of a parcel of real estate under section 5 of this chapter; and
(2) the owner rejects the offer;
the department or other person shall file a complaint under this article to acquire the parcel by the exercise of eminent domain not more than six (6) years after the date the department or other person submitted the written acquisition offer to the owner.

(c) If the Indiana department of transportation or other person fails to meet the requirements described in subsection (b) concerning a parcel of real estate, the department or other person may not initiate an action under this article to acquire the parcel through the power of eminent domain for the same or a substantially similar project for at least three (3) years after the date the six (6) year period described in subsection (b) expires.

SECTION 9. IC 32-24-1-5.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.9. (a) As used in this section, "public utility" means a public utility, municipally owned utility, cooperatively owned utility, joint agency created under IC 8-1-2.2, municipal sanitation department operating under IC 36-9-23, sanitary district operating under IC 36-9-25, or an agency operating as a stormwater utility.

(b) This section applies only to a public utility or pipeline company.

(c) If:
(1) a public utility or pipeline company submits a written acquisition offer to the owner of a parcel of real estate under section 5 of this chapter; and
(2) the owner rejects the offer in writing;
the public utility or pipeline company, to acquire the parcel by the exercise of eminent domain, must file a complaint under this article not more than six (6) years after the date on which the public utility or pipeline company submitted the written acquisition offer to the owner.

(d) If a public utility or pipeline company fails to meet the requirements set forth in subsection (c) concerning a parcel of real estate, the public utility or pipeline company may not initiate an action under this article to acquire the parcel through the power of eminent domain for the same project or a substantially similar project for at least two (2) years after the date on which the six (6) year period described in subsection (c) expires.

SECTION 10. IC 32-24-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A defendant may object to the proceedings:
(1) because the court does not have jurisdiction either of the subject matter or of the person; or
(2) because the plaintiff does not have the right to exercise the power of eminent domain for the use sought; or
(3) for any other reason disclosed in the complaint or set up in the objections.

(b) Objections under subsection (a) must be:
(1) in writing;
(2) separately stated and numbered; and
(3) filed not later than the first appearance of thirty (30) days after the date the notice required in section 6 of this chapter is served on the defendant. However, the court may extend the period for filing objections by not more than thirty (30) days upon written motion of the defendant.

(c) The court may not allow pleadings in the cause other than the complaint, any objections, and the written exceptions provided for in section 11 of this chapter. However, the court may permit amendments to the pleadings.

(d) If an objection is sustained, the plaintiff may amend the complaint or may appeal from the decision in the manner that appeals are taken from final judgments in civil actions. All the parties shall take notice and are bound by the judgment in an appeal.

(e) If the objections are overruled, the court shall appoint appraisers as provided for in this chapter. Any defendant may appeal the interlocutory order overruling the objections and appointing appraisers in the manner that appeals are taken from final judgments in civil actions upon filing with the circuit court clerk a bond:

(1) with the penalty that the court fixes;
(2) with sufficient surety;
(3) payable to the plaintiff; and
(4) conditioned for the diligent prosecution of the appeal and for the payment of the judgment and costs that may be affirmed and adjudged against the appellees.

The appeal bond must be filed not later than ten (10) days after the appointment of the appraisers.

(f) All the parties shall take notice of and be bound by the judgment in the appeal.

(g) The transcript must be filed in the office of the clerk of the supreme court not later than thirty (30) days after the filing of the appeal bond. The appeal does not stay proceedings in the cause.

SECTION 11. IC 32-24-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Not later than twenty-four (24) days before a trial involving the issue of damages, the plaintiff shall, and a defendant may, file and serve on the other party an offer of settlement. Not more than five (5) days after the date offer of settlement is served, the party served may respond by filing and serving upon the other party an acceptance or a counter offer of settlement. The offer must state that it is made under this section and specify the amount, exclusive of interest and costs, that the party serving the offer is willing to accept as just compensation and damages for the property sought to be acquired. The offer or counter offer supersedes any other offer previously made under this chapter by the party.

(b) An offer of settlement is considered rejected unless an acceptance in writing is filed and served on the party making the offer before the trial on the issue of the amount of damages begins.

(c) If the offer is rejected, it may not be referred to for any purpose at the trial but may be considered solely for the purpose of awarding costs and litigation expenses under section 14 of this chapter.

(d) This section does not limit or restrict the right of a defendant to payment of any amounts authorized by law in addition to damages for the property taken from the defendant.

(e) This section does not apply to an action brought under IC 8-1-13-19 (repealed).

SECTION 12. IC 32-24-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) Except as provided in subsection (b), the plaintiff shall pay the costs of the proceedings.

(b) If there is a trial, the additional costs caused by the trial shall be paid as ordered by the court. However, if there is a trial and the amount of damages awarded to the defendant by the judgment, exclusive of interest and costs, is greater than the amount specified in the last offer of settlement made by the plaintiff under section 12 of this chapter, the court shall allow the defendant the defendant's litigation expenses, including reasonable attorney's fees, in an amount not to exceed two thousand five hundred dollars ($2,500); the lesser of:

(1) twenty-five thousand dollars ($25,000); or
(2) the fair market value of the defendant's property or easement as determined under this chapter.

SECTION 13. IC 32-24-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) If the person seeking to take property under this article fails:

(1) to pay the assessed damages and, if applicable, the attorney's fees payable under section 14 of this chapter not later than one (1) year after the appraisers' report is filed, if exceptions are not filed to the report;

(2) to pay:

(A) the damages assessed and, if applicable, attorney's fees payable under section 14 of this chapter if exceptions are filed to the appraisers' report and the exceptions are not sustained; or

(B) the damages assessed and, if applicable, attorney's fees payable under section 14 of this chapter and costs if exceptions are filed to the appraisers' report and the exceptions are sustained:

not later than one (1) year after the entry of the judgment, if an appeal is not taken from the judgment;

(3) to pay the damages assessed and, if applicable, attorney's fees payable under section 14 of this chapter or the judgment rendered in the trial court not later than one (1) year after final judgment is entered in the appeal if an appeal is taken from the judgment of the trial court; or

(4) to take possession of the property and adapt the property for the purpose for which it was acquired not later than five (5) years after the payment of the award or judgment for damages, except where a fee simple interest in the property is authorized to be acquired and is acquired;

the person seeking to acquire the property forfeits all rights in the property as fully and completely as if the procedure to take the property had not begun.

(b) An action to declare a forfeiture under this section may be brought by any person having an interest in the property sought to be acquired, or the question of the forfeiture may be raised and determined by direct allegation in any subsequent proceedings, by any other person to acquire the property for a public use. In the subsequent proceedings the person seeking the previous acquisition or the person's proper representatives, successors, or assigns shall be made parties.

SECTION 14. IC 32-24-2-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. If applicable, a landowner who incurs attorney's fees through the exercise of eminent domain under this chapter is entitled to reasonable attorney's fees in accordance with IC 32-24-1-14.

SECTION 15. IC 32-24-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) After the appraisers file their report, any of the defendants may, within a reasonable time fixed by the court, file exceptions to the report, alleging that the appraisement of the property, as made by the appraisers, is not the true cash value of the property. If exceptions are filed, a trial on the exceptions shall be held by the court or before a jury, as fixed by the court.

(b) The circuit court clerk shall give notice of filing of the appraisers' report to all known parties to the action and their attorneys of record by certified mail.

(c) Upon the trial of the exceptions, the court may revise, correct, amend, or confirm the appraisement in accordance with the finding of the court or verdict of the jury.

(d) The court shall apportion the costs accruing in the proceedings as justice may require. However, if applicable, a landowner who incurs attorney's fees through the exercise of eminent domain under this chapter is entitled to reasonable attorney's fees in accordance with IC 32-24-1-14.

(e) Changes of venue may be had as in other cases.

SECTION 16. IC 32-24-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A person, firm, partnership, limited liability company, or corporation authorized to do business in Indiana and authorized to:
(1) furnish, supply, transmit, transport or distribute electrical energy, gas, oil, petroleum, water, heat, steam, hydraulic power, or communications by telegraph or telephone to the public or to any town or city; or
(2) construct, maintain or operate turnpikes, toll bridges, canals, public landings, wharves, ferries, dams, aqueducts, street railways, or interurban railways for the use of the public or for the use of any town or city;
may take, acquire, condemn, and appropriate land, real estate, or any interest in the land or real estate to accomplish the essential delivery of services described in subdivisions (1) and (2).
(b) A person described in subsection (a) has all accommodations, rights, and privileges necessary to accomplish the use for which the property is taken. A person acting under subsection (a) may use acquired, condemned, or appropriated land to construct railroad siding, switch, or industrial tracks connecting its plant or facilities with the tracks of any common carrier.

SECTION 17. IC 32-24-4.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 4.5. Procedures for Transferring Ownership or Control of Real Property Between Private Persons
Sec. 1. (a) As used in this section, "public use" means the:
(1) possession, occupation, and enjoyment of a parcel of real property by the general public or a public agency for the purpose of providing the general public with fundamental services, including the construction, maintenance, and reconstruction of highways, bridges, airports, ports, certified technology parks, intermodal facilities, and parks;
(2) leasing of a highway, bridge, airport, port, certified technology park, intermodal facility, or park by a public agency that retains ownership of the parcel by written lease with right of forfeiture; or
(3) use of a parcel of real property to create or operate a public utility, an energy utility (as defined in IC 8-1-2.5-2), or a pipeline company.
The term does not include the public benefit of economic development, including an increase in a tax base, tax revenues, employment, or general economic health.
(b) This chapter applies to a condemnor that exercises the power of eminent domain to acquire a parcel of real property:
(1) from a private person;
(2) with the intent of ultimately transferring ownership or control to another private person; and
(3) for a use that is not a public use.
(c) This chapter does not apply thirty (30) years after the acquisition of the real property.
Sec. 2. As used in this chapter, "condemnor" means a person authorized to exercise the power of eminent domain.
Sec. 3. As used in this chapter, "parcel of real property" means real property that:
(1) is under common ownership; and
(2) a condemnor is seeking to acquire.
Sec. 4. As used in this chapter, "private person" means a person other than a public agency.
Sec. 5. (a) As used in this chapter, "public agency" means:
(1) a state agency (as defined in IC 4-13-1-1);
(2) a unit (as defined in IC 36-1-2-23);
(3) a body corporate and politic created by state statute;
(4) a school corporation (as defined in IC 20-26-2-4); or
(5) another governmental unit or district with eminent domain powers.
(b) The term does not include a state educational institution (as defined in IC 20-12-0-5.1).
Sec. 6. As used in this chapter, "relocation costs" means relocation expenses payable in accordance with the federal Uniform Relocation Assistance Act (42 U.S.C. 4601 through 42 U.S.C. 4655).
Sec. 7. A condemnor may acquire a parcel of real property by the exercise of eminent domain under this chapter only if all the following conditions are met:
(1) At least one (1) of the following conditions exists on the parcel of real property:

A determination concerning whether a condition described in this section has been met is subject to judicial review in an eminent domain proceeding concerning the parcel of real property. If a court determines that an eminent domain proceeding brought under this chapter is unauthorized because the condemnor did not meet the conditions described in this section, the court shall order the condemnor to reimburse the owner for the owner's reasonable attorney's fees that the court finds were necessary to defend the action.
Sec. 8. Notwithstanding IC 32-24-1, a condemnor that acquires a parcel of real property through the exercise of eminent domain under this chapter shall compensate the owner of the parcel as follows:
(1) For agricultural land:
(A) either:
(i) payment to the owner equal to one hundred twenty-five percent (125%) of the fair market value of the parcel as determined under IC 32-24-1; or
(ii) upon the request of the owner and if the owner and condemning both agree, transfer to the owner of an ownership interest in agricultural land that is equal in acreage to the parcel acquired through the exercise of eminent domain;
(B) payment of any other damages determined under IC 32-24-1 and any loss incurred in a trade or business that is attributable to the exercise of eminent domain; and
(C) payment of the owner's relocation costs, if any.

(2) For a parcel of real property occupied by the owner as a residence:
(A) payment to the owner equal to one hundred percent (100%) of the fair market value of the parcel as determined under IC 32-24-1;
(B) payment of any other damages determined under IC 32-24-1 and any loss incurred in a trade or business that is attributable to the exercise of eminent domain; and
(C) payment of the owner's relocation costs, if any.

(3) For a parcel of real property not described in subdivision (1) or (2):
(A) payment to the owner equal to one hundred percent (100%) of the fair market value of the parcel as determined under IC 32-24-1;
(B) payment of any other damages determined under IC 32-24-1 and any loss incurred in a trade or business that is attributable to the exercise of eminent domain; and
(C) payment of the owner's relocation costs, if any.

Sec. 9. (a) Not later than forty-five (45) days before a trial involving the issue of compensation, the condemning shall, and the owner may, file and serve on the other party an offer of settlement. Not more than five (5) days after the date the offer of settlement is served, the party served may respond by filing and serving upon the other party an acceptance or a counter offer of settlement. The offer must state that it is made under this section and specify the amount, exclusive of interest and costs, that the party serving the offer is willing to accept as just compensation and damages for the property sought to be acquired. The offer or counter offer supersedes any other offer previously made under this chapter by the party.

(b) An offer of settlement is considered rejected unless an acceptance in writing is filed and served on the party making the offer before the trial on the issue of the amount of damages begins.

(c) If the offer is rejected, it may not be referred to for any purpose at the trial but may be considered solely for the purpose of awarding costs and litigation expenses under section 10 of this chapter.

(d) This section does not limit or restrict the right of an owner to payment of any amounts authorized by law in addition to damages for the property taken from the owner.

Sec. 10. (a) Except as provided in subsection (b), the condemning shall pay the costs of the proceedings.

(b) If there is a trial, the additional costs caused by the trial shall be paid as ordered by the court. However, if there is a trial and the amount of damages awarded to the owner by the judgment, exclusive of interest and costs, is greater than the amount specified in the last offer of settlement made by the condemning under section 9 of this chapter, the court shall require the condemning to pay the owner's litigation expenses, including reasonable attorney's fees, in an amount that does not exceed twenty-five percent (25%) of the cost of the acquisition.

Sec. 11. (a) This section applies to a parcel of real property located in a project area:
(1) that is located in only one (1) county;
(2) that is at least ten (10) acres in size; and
(3) in which a condemning or its agents has acquired clear title to at least ninety percent (90%) of the parcels in the project area.

(b) As used in this section, "project area" means an area designated by a condemning and the legislative body for the condemning for economic development.

(c) Notwithstanding sections 7 and 8 of this chapter, a condemning may acquire a parcel of real property by the exercise of eminent domain under this section only if all of the following conditions are met:
(1) The parcel of real property is not occupied by the owner of the parcel as a residence.
(2) The legislative body for the condemning adopts a resolution by a two-thirds (2/3) vote that authorizes the condemning to exercise eminent domain over a particular parcel of real property.
(3) Payment of the owner's relocation costs, if any.

(e) The condemning may not acquire a parcel of real property through the exercise of eminent domain under this section if the owner of the parcel demonstrates by clear and convincing evidence that:
(1) the location of the parcel is essential to the viability of the owner's commercial activity; and
(2) the payment of damages and relocation costs cannot adequately compensate the owner of the parcel.

The court shall award payment for reasonable attorney's fees to the owner of a parcel in accordance with this chapter.

SECTION 18. IC 32-24-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 7. Procedure for Libraries
Sec. 1. This chapter applies to the exercise of eminent domain by a library board (as defined in IC 36-12-1-3). Notwithstanding any other law, a library board may exercise eminent domain only if it complies with this chapter.

Sec. 2. A library board may exercise eminent domain only if one (1) of the following legislative bodies adopts a resolution specifically authorizing the library board to exercise eminent domain over a particular parcel of land for a specific purpose:
(1) If the library district is located entirely within the corporate boundaries of a municipality, the legislative body of the municipality.
(2) If the library district:
(A) is not described by subdivision (1); and
(B) is located entirely within the boundaries of a township; the legislative body of the township.
(3) If the library district is not described by subdivision (1) or (2), the legislative body of each county in which the library district is located.

Sec. 3. The resolution described in section 2 of this chapter must specifically describe:
(1) the parcel of land that the library board seeks to acquire by exercising eminent domain;
(2) the purpose for which the parcel of land is to be acquired; and
(3) why the exercise of eminent domain is necessary to accomplish the library board's purpose.

SECTION 19. IC 36-7-2-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.5. A unit may not require that a lawfully erected sign be removed or altered as a condition of issuing:
(1) a permit;
(2) a license;
(3) a variance; or
(4) any other order concerning land use or development;
unless the owner of the sign is compensated in accordance with IC 32-24 or has waived the right to and receipt of damages in writing.

SECTION 20. IC 36-7-14-32.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32.5. (a) The commission may acquire a parcel of real property by the exercise of eminent domain when the real property has all of the following characteristics:

(1) The real property is an unsafe building (as defined in IC 36-7-9-4) and is subject to an order issued under IC 36-7-9-5.
(2) The owner of the real property has not complied with the order issued under IC 36-7-9-5.
(3) The real property is not being used as a residence or for a business enterprise.

meets at least one (1) of the conditions described in IC 32-24-4.5-7(1).

(2) The real property is capable of being developed or rehabilitated to provide affordable housing for low or moderate income families or to provide other development that will benefit or serve low or moderate income families.

(3) The unsafe condition of the real property has a negative impact on the use or value of the neighboring properties or other properties in the community.

(b) The commission or its designated hearing examiner shall conduct a public meeting to determine whether a parcel of real property has the characteristics set forth in subsection (a). Each person holding a fee or life estate interest of record in the property must be given notice by first class mail of the time and date of the hearing at least ten (10) days before the hearing and is entitled to present evidence and make arguments at the hearing.

(c) If the commission considers it necessary to acquire real property under this section, the commission shall adopt a resolution setting out the commission's determination to exercise that power and directing its attorney to file a petition in the name of the city on behalf of the department in the circuit or superior court with jurisdiction in the county.

(d) Eminent domain proceedings under this section are governed by IC 32-24.

(e) The commission shall use real property acquired under this section for one (1) of the following purposes:

(1) Sale in an urban homestead program under IC 36-7-17.
(2) Sale to a family whose income is at or below the county's median income for families.
(3) Sale or grant to a neighborhood development corporation or other nonprofit corporation with a condition in the granting clause of the deed requiring the nonprofit development corporation to lease or sell the property to a family whose income is at or below the county's median income for families or to cause development that will serve or benefit families whose income is at or below the unit's median income for families.
(4) Any other purpose appropriate under this chapter so long as it will serve or benefit families whose income is at or below the county's median income for families.

(f) The county fiscal body shall establish criteria for determining the eligibility of neighborhood development corporations and other nonprofit corporations for sales and grants of real property under subsection (e)(3). A neighborhood development corporation or other nonprofit corporation may apply to the county fiscal body for a determination concerning the corporation's compliance with the criteria established under subsection (f).

(g) Any other purpose appropriate under this chapter so long as it will serve or benefit families whose income is at or below the county's median income for families.

SECTION 21. IC 36-7-15.1-22.5, AS AMENDED BY P.L.185-2005, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22.5. (a) The commission may acquire a parcel of real property by the exercise of eminent domain when the following conditions exist:

(1) The real property is an unsafe premises (as defined in IC 36-7-9) and is subject to an order issued under IC 36-7-9 or a notice of violation issued by the county's health and hospital corporation under its powers under IC 36-22.
(2) The real property is not being used as a residence or for a business enterprise.

meets at least one (1) of the conditions described in IC 32-24-4.5-7(1).

(1) The real property is capable of being developed or rehabilitated to provide affordable housing for low or moderate income families or to provide other development that will benefit or serve low or moderate income families.

(2) The real property is capable of being developed or rehabilitated to provide affordable housing for low or moderate income families or to provide other development that will benefit or serve low or moderate income families.

(b) The commission or its designated hearing examiner shall conduct a public meeting to determine whether the conditions set forth in subsection (a) exist relative to a parcel of real property. Each person holding a fee or life estate interest of record in the property must be given notice by first class mail of the time and date of the hearing at least ten (10) days before the hearing, and is entitled to present evidence and make arguments at the hearing.

(c) If the commission considers it necessary to acquire real property under this section, it shall adopt a resolution setting out its determination to exercise that power and directing its attorney to file a petition in the name of the city on behalf of the department in the circuit or superior court in the county.

(d) Eminent domain proceedings under this section are governed by IC 32-24.

(e) The commission shall use real property acquired under this section for one (1) of the following purposes:

(1) Sale in an urban homestead program under IC 36-7-17.
(2) Sale to a family whose income is at or below the county's median income for families.
(3) Sale or grant to a neighborhood development corporation or other nonprofit corporation, with a condition in the granting clause of the deed requiring the nonprofit organization to lease or sell the property to a family whose income is at or below the county's median income for families or to cause development that will serve or benefit families whose income is at or below the county's median income for families. However, a nonprofit organization is eligible for a sale or grant under this subdivision only if the county fiscal body has determined that the nonprofit organization meets the criteria established under subsection (f).
(4) Any other purpose appropriate under this chapter so long as it will serve or benefit families whose income is at or below the county's median income for families.

(f) The county fiscal body shall establish criteria for determining the eligibility of neighborhood development corporations and other nonprofit corporations for sales and grants of real property under subsection (e)(3). A neighborhood development corporation or other nonprofit corporation may apply to the county fiscal body for a determination concerning the corporation's compliance with the criteria established under subsection (f).

(g) Any other purpose appropriate under this chapter so long as it will serve or benefit families whose income is at or below the county's median income for families.

(h) The real property is capable of being developed or rehabilitated to provide affordable housing for low or moderate income families or to provide other development that will benefit or serve low or moderate income families.
The amount of the exemption under this section may not exceed the amount of the state gross retail tax that would be imposed on the transaction if the cargo trailer or recreational vehicle that is purchased in that state or country by an Indiana resident and will be titled or registered in Indiana.

The amount of the exemption for a cargo trailer or recreational vehicle is determined in subsection (d): A transaction involving a cargo trailer or recreational vehicle that does not meet the requirements of subdivision (5) is not exempt from the state gross retail tax.

(d) The amount of the exemption for a cargo trailer or a recreational vehicle under this section is equal to the amount of:

(1) the state gross retail tax that would be imposed on the transaction if the cargo trailer or recreational vehicle were registered in Indiana; minus
(2) the sales, use, or similar tax that would have been imposed on the transaction under the laws of the state or country in which the purchaser omits the cargo trailer or recreational vehicle will be registered.

The amount of the exemption under this section may not exceed the amount of the state gross retail tax that would be imposed on the transaction if the cargo trailer or recreational vehicle were registered in Indiana. A retail merchant that accepts an exemption claim for a cargo trailer or recreational vehicle under this section shall, within sixty (60) days after the date of the transaction, have on file a copy of the purchaser’s title or registration of the cargo trailer or recreational vehicle outside Indiana or pay to the state the amount of the exemption:

(e) Any state gross retail tax due after the application of the exemption provided by this section must be paid to the retail merchant.

( f) (d) A purchaser must claim an exemption under this section by submitting to the retail merchant an affidavit stating the purchaser’s intent to:

(1) transport the cargo trailer, recreational vehicle, or aircraft to a destination outside Indiana within thirty (30) days after delivery; and
(2) title or register the cargo trailer, recreational vehicle, or aircraft for use in another state or country.

The department shall prescribe the form of the affidavit, which must include an affirmation by the purchaser under the penalties for perjury that the information contained in the affidavit is true. The affidavit must identify the state or country in which the cargo trailer, recreational vehicle, or aircraft will be titled or registered. Within sixty (60) days after the date of the transaction, the purchaser shall provide to the retail merchant a copy of the purchaser’s title or registration of the cargo trailer, recreational vehicle, or aircraft outside Indiana:

(g) (e) The department shall provide the information necessary to calculate the amount of determine a purchaser’s eligibility for an exemption claimed under this section to retail merchants in the business of selling cargo trailers or recreational vehicles.

The amount of the exemption for a cargo trailer or recreational vehicle will be titled or registered in a state or country that provides an exemption from sales, use, or similar taxes imposed on a cargo trailer or recreational vehicle that is purchased in that state or country by an Indiana resident and will be titled or registered in Indiana.

(2) designed for being drawn by a motor vehicle; and
(4) having a gross vehicle weight rating of at least two thousand two hundred (2,200) pounds.

(b) As used in this section, "recreational vehicle" means a vehicle with or without motive power equipped exclusively for living quarters for persons traveling upon the highways. The term includes a travel trailer, a motor home, a truck camper with a floor and facilities enabling it to be used as a dwelling, and a fifth wheel trailer.

(c) (a) A transaction involving a cargo trailer, a recreational vehicle, or an aircraft is exempt from the state gross retail tax if:

(1) the purchaser is a nonresident;
(2) upon receiving delivery of the cargo trailer, recreational vehicle, or aircraft, the person transports it within thirty (30) days to a destination outside Indiana;
(3) the cargo trailer, recreational vehicle, or aircraft will be titled or registered for use in another state or country; and
(4) the cargo trailer, recreational vehicle, or aircraft will not be titled or registered for use in Indiana; and

(5) in the case of a transaction involving a cargo trailer or recreational vehicle, the cargo trailer or recreational vehicle will be titled or registered in a state or country that provides an exemption from sales, use, or similar taxes imposed on a cargo trailer or recreational vehicle that is purchased in that state or country by an Indiana resident and will be titled or registered in Indiana.

(2) hospital licensed under IC 16-21; that provides health care services for surgical treatment of morbid obesity.

(c) As used in this section, "morbid obesity" means:

(1) a body mass index of at least thirty-five (35) kilograms per meter squared, with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes; or
(2) a body mass index of at least forty (40) kilograms per meter squared without comorbidity.

For purposes of this subsection, body mass index is equal to weight in kilograms divided by height in meters squared.

(c) Except as provided in subsection (f), the state shall provide...
coverage for nonexperimental, surgical treatment by a health care provider of morbid obesity:

(1) that has persisted for at least five (5) years; and
(2) for which nonsurgical treatment that is supervised by a physician has been unsuccessful for at least eighteen (18) six (6) consecutive months.

(f) The state may not provide coverage for surgical treatment of morbid obesity for a covered individual who is less than twenty-one (21) years of age unless two (2) physicians licensed under IC 25-22.5 determine that the surgery is necessary to:

(1) save the life of the covered individual; or
(2) restore the covered individual's ability to maintain a major life activity (as defined in IC 4-23-29-6);

and each physician documents in the covered individual's medical record the reason for the physician's determination.

SECTION 2. IC 16-40-3-2, AS ADDED BY P.L.196-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) As used in this section, "major complication" means a complication from surgical treatment for morbid obesity that:

(1) requires an extended hospitalization, additional surgical treatment, or invasive drug therapy within thirty (30) days of the original surgical treatment; or
(2) results in a permanent disability.

(b) As used in this section, "serious side effect" means a nutritional deficiency that requires hospitalization or invasive therapy.

(c) A physician who is licensed under IC 25-22.5 and who performs a surgical treatment for the treatment of morbid obesity shall do the following:

(1) Before performing surgery, discuss the following with the patient:
   (A) The requirements to qualify for the surgery.
   (B) The details of the surgery.
   (C) The possible complications from the surgery.
   (D) The side effects from the surgery, including lifestyle changes and dietary protocols.

   (ʫ) (2) Monitor the patient for five (5) years following the patient's surgery, unless the physician is unable to locate the patient after making reasonable efforts. and
    (ʩ) (3) Report before June 30 and before December 31 of each year:
        (A) to; and
        (B) in a manner prescribed by;
    the state department any death, or serious side effect, or major complication of the patient.

(ʫ) (d) The A report required in subsection (ʫ) by subsection (c)(3) must include the following information:

   (1) The gender of the patient.
   (2) The name of the physician who performed the surgery.
   (3) The location where the surgery was performed.
   (4) Information concerning the death, serious side effect, or major complication and the circumstances in which the death, serious side effect, or major complication occurred.

(5) The comorbidities, body mass index, and waist circumference of the patient:

   (A) at the time of the surgical treatment; and
   (B) thirty (30) days, ninety (90) days, and one (1) year after surgical treatment.

(6) Whether the patient has had previous abdominal surgery.

SECTION 3. IC 16-40-3-3, AS ADDED BY P.L.196-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The state department shall collect and maintain the information reported to the state department under section 2 of this chapter.

(b) The reports made under section 2(c)(3) of this chapter are public records and are confidential. However, the state department may compile statistical reports from information contained in reports made under section 2(c)(3) of this chapter. Any statistical report is subject to public inspection. However, the state department may not release any information contained in the reports that the state department determines may reveal the patient's identity.

SECTION 4. IC 27-8-14.1-4, AS AMENDED BY P.L.196-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) Except as provided in subsection (b), an insurer that issues an accident and sickness insurance policy shall offer coverage for nonexperimental, surgical treatment by a health care provider of morbid obesity:

(1) that has persisted for at least five (5) years; and
(2) for which nonsurgical treatment that is supervised by a physician has been unsuccessful for at least eighteen (18) six (6) consecutive months.

(b) An insurer that issues an accident and sickness insurance policy may not provide coverage for a surgical treatment of morbid obesity for an insured who is less than twenty-one (21) years of age unless two (2) physicians licensed under IC 25-22.5 determine that the surgery is necessary to:

(1) save the life of the insured; or
(2) restore the insured's ability to maintain a major life activity (as defined in IC 4-23-29-6);

and each physician documents in the insured's medical record the reason for the physician's determination.

SECTION 5. IC 27-13-7-14.5, AS AMENDED BY P.L.196-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14.5. (a) As used in this section, "health care provider" means a:

(1) physician licensed under IC 25-22.5; or
(2) hospital licensed under IC 16-21;

that provides health care services for surgical treatment of morbid obesity.

(b) As used in this section, "morbid obesity" means:

(1) a body mass index of at least thirty-five (35) kilograms per meter squared with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes; or
(2) a body mass index of at least forty (40) kilograms per meter squared without comorbidity.

For purposes of this subsection, body mass index equals weight in kilograms divided by height in meters squared.

(c) As used in this section, "morbid obesity" means:

(1) a body mass index of at least thirty-five (35) kilograms per meter squared with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes; or
(2) a body mass index of at least forty (40) kilograms per meter squared without comorbidity.

For purposes of this subsection, body mass index equals weight in kilograms divided by height in meters squared.

(c) Except as provided in subsection (d), a health maintenance organization that provides coverage for basic health care services under a group contract shall offer coverage for nonexperimental, surgical treatment by a health care provider of morbid obesity:

(1) that has persisted for at least five (5) years; and
(2) for which nonsurgical treatment that is supervised by a physician has been unsuccessful for at least eighteen (18) six (6) consecutive months.

(d) A health maintenance organization that provides coverage for basic health care services may not provide coverage for surgical treatment of morbid obesity for an enrollee who is less than twenty-one (21) years of age unless two (2) physicians licensed under IC 25-22.5 determine that the surgery is necessary to:

(1) save the life of the enrollee; or
(2) restore the enrollee's ability to maintain a major life activity (as defined in IC 4-23-29-6);

and each physician documents in the enrollee's medical record the reason for the physician's determination.

Reference is to ESB 266 as reprinted March 1, 2006.)

MILLER LEHE
SIPES C. BROWN
Senate Conferees House Conferees

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

CONFERENCE COMMITTEE REPORT
ESB 284–1; filed March 9, 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 284 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 2, delete lines 4 through 23.
(Reference is to ESB 284 as printed February 22, 2006.)

WYSS T. BROWN
BRODEN C. BROWN
Senate Conference House Conference

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

CONFERENCE COMMITTEE REPORT

ESB 305–1; filed March 9, 2006, at 1:23 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 305 respectfully reports that said two committees have conferred and agree 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 9-13-2-170.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 170.7. "Special purpose bus" has the meaning set forth in IC 20-27-2-10.


SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 14. (a) A person may not operate a school bus or a special purpose bus at a speed greater than:

(1) fifty-five (55) miles per hour on a federal or state highway;

or

(2) forty (40) miles per hour on a county or township highway.

(b) If the posted speed limit is lower than the absolute limits set in this section or if the absolute limits do not apply, the maximum lawful speed of a bus is the posted speed limit.

SECTION 3. IC 9-21-12-11, AS AMENDED BY P.L.231-2005, SECTION 3; IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 11. (a) A person who violates section 5, 6, or 7 of this chapter commits a Class C infraction.

(b) A person who knowingly or intentionally violates section 12, 13, 14, 15, 16, or 17 of this chapter commits a Class C misdemeanor.

(c) A person described in section 18(b), 18(c), or 18(d) of this chapter commits a Class B infraction.

SECTION 4. IC 9-21-12-17, AS ADDED BY P.L.1-2005, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 17. (a) Except as provided in subsection (b), before crossing any railroad track at grade, the driver of a school bus or special purpose bus carrying a passenger shall stop the bus within fifty (50) feet but not less than fifteen (15) feet from the nearest rail. While the bus is stopped, the driver shall:

(1) listen through an open door;

(2) look in both directions along the track for an approaching train; and

(3) look for signals indicating the approach of a train.

The driver may not proceed until it is safe to proceed. When it is safe to proceed, the driver shall select a gear that will allow the driver to cross the tracks without changing gears. The driver may not shift gears while crossing the tracks.

(b) The driver is not required to stop when a police officer is directing the flow of traffic across railroad tracks.

(c) Upon conviction of a violation of this section, a driver shall have the driver's operator's license suspended for a period of not less than sixty (60) days in addition to the penalties provided by section 11 of this chapter.

SECTION 5. IC 9-21-12-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 18. (a) Whenever a school bus or special purpose bus is at a place of departure for transporting passengers, the school bus or special purpose bus emergency escape exits, doors, emergency exit windows, roof exits, and service doors must be free of any obstruction that:

(1) inhibits or obstructs an exit; or

(2) renders the means of exit hazardous.

(b) A driver who knowingly operates a school bus or special purpose bus in violation of subsection (a) is subject to section 11(c) of this chapter.

(c) A person who knowingly directs a driver to operate a school bus or special purpose bus in violation of subsection (a) is subject to section 11(c) of this chapter.

(d) A school corporation or an entity that employs:

(1) a driver who knowingly operates a school bus or special purpose bus in violation of subsection (a); or

(2) a person who knowingly directs a driver to operate a school bus or special purpose bus in violation of subsection (a); is subject to section 11(c) of this chapter.

SECTION 6. IC 20-27-3-4, AS ADDED BY P.L.1-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 4. (a) The committee has the following powers:

(1) The committee may adopt rules under IC 4-22-2 establishing standards for the construction of school buses and special purpose buses, including minimum standards for the construction of school buses and special purpose buses necessary to be issued a:

(A) valid certificate of inspection decal; and

(B) temporary certificate of inspection decal described in IC 20-27-7-10.

(2) The committee may adopt rules under IC 4-22-2 establishing standards for the equipment of school buses and special purpose buses, including minimum standards for the equipment of school buses and special purpose buses necessary to be issued a:

(A) valid certificate of inspection decal; and

(B) temporary certificate of inspection decal described in IC 20-27-7-10.

(3) The committee may adopt rules under IC 4-22-2 specifying the minimum standards that must be met to avoid the issuance of an out-of-service certificate of inspection decal.

(4) The committee may provide for the inspection of all school buses and special purpose buses, new or old, that are offered for sale, lease, or contract.

(5) The committee may provide for the annual inspection of all school buses and special purpose buses and the issuance of certificate of inspection decals.

(6) The committee may maintain an approved list of school buses and special purpose buses that have passed inspection tests under subdivision (4) or (5).

(7) The committee may, subject to approval by the state board of accounts, prescribe standard forms for school bus driver contracts.

(8) The committee may hear appeals brought under IC 20-27-7-15.

(b) The committee shall adopt rules under IC 4-22-2 to set performance standards and measurements for determining the physical ability necessary for an individual to be a school bus driver.

(c) The certificate of inspection decals shall be issued to correspond with each school year. Each certificate of inspection decal expires on September 30 following the school year in which the certificate of inspection decal is effective. However, for buses that are described in IC 20-27-7-7, the certificate of inspection decal expires on a date that is not later than seven (7) months after the date of the first inspection for the particular school year.

SECTION 7. IC 20-27-3-7, AS ADDED BY P.L.1-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 7. (a) A school bus or special purpose bus sold or delivered in Indiana must meet the standards of construction and equipment set forth in the rules of the committee.

(b) A school bus may not be originally licensed in Indiana until the school bus has been inspected by the state police department and found to comply with these standards.

(Reference is to ESB 305 as reprinted March 1, 2006.)

M. YOUNG HINKLE
ROGERS KLINKER
Senate Conferences House Conferences

The conference committee report was filed and read a first time.
Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 355 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 6-1.1-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. "General assessment provisions of this article" means the law contained in:

(1) chapters 3, 4, 5, 9, 11, 13, 14, 15, 16, 28, 31, and 35 of this article;
(2) sections 4, 6, 7, 8, 11, 12, and 13 of chapter 30 of this article;
(3) sections 1 through 7, inclusive, of chapter 36 of this article; and
(4) sections 2, 3, 7, 8, 9, 10, 11, 12, and 13 of chapter 37 of this article.

SECTION 2. IC 6-1.1-18.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Any civil taxing unit that determines that it cannot carry out its governmental functions for an ensuing calendar year under the levy limitations imposed by section 3 of this chapter may:

(1) before September 20 of the calendar year immediately preceding the ensuing calendar year; or
(2) in the case of a request described in section 16 of this chapter, before:

(A) December 31 of the calendar year immediately preceding the ensuing calendar year; or
(B) with the approval of the county fiscal body of the county in which the civil taxing unit is located, March 1 of the ensuing calendar year;

appeal to the department of local government finance for relief from those levy limitations. In the appeal the civil taxing unit must state that it will be unable to carry out the governmental functions committed to it by law unless it is given the authority that it is petitioning for. The civil taxing unit must support these allegations by reasonably detailed statements of fact.

(b) The department of local government finance shall promptly deliver to the local government tax control board every appeal petition it receives under subsection (a) and any materials it receives relevant to those appeals. Upon receipt of an appeal petition, the local government tax control board shall immediately proceed to the examination and consideration of the merits of the civil taxing unit's appeal.

(c) In considering an appeal, the local government tax control board has the power to conduct hearings, require any officer or member of the appealing civil taxing unit to appear before it, or require any officer or member of the appealing civil taxing unit to provide the board with any relevant records or books.

(d) If an officer or member:

(1) fails to appear at a hearing of the local government tax control board after having been given written notice from the local government tax control board requiring his that person's attendance; or
(2) fails to produce for the local government tax control board's use the books and records that the local government tax control board by written notice required the officer or member to produce;

then the local government tax control board may file an affidavit in the circuit court in the jurisdiction in which the officer or member may be found setting forth the facts of the failure.

(e) Upon the filing of an affidavit under subsection (d), the circuit court shall promptly issue a summons, and the sheriff of the county within which the circuit court is sitting shall serve the summons. The summons must command the officer or member to appear before the local government tax control board, to provide information to the local government tax control board, or to produce books and records for the local government tax control board's use, as the case may be. Disobedience of the summons constitutes, and is punishable as, a contempt of the circuit court that issued the summons.

(f) All expenses incident to the filing of an affidavit under subsection (d) and the issuance and service of a summons shall be charged to the officer or member against whom the summons is issued, unless the circuit court finds that the officer or member was acting in good faith and with reasonable cause. If the circuit court finds that the officer or member was acting in good faith and with reasonable cause or if an affidavit is filed and no summons is issued, the expenses shall be charged against the county in which the affidavit was filed and shall be allowed by the proper fiscal officers of that county.

(g) The fiscal officer of a civil taxing unit that appeals under section 16 of this chapter for relief from levy limitations shall immediately file a copy of the appeal petition with the county auditor and the county treasurer of the county in which the unit is located.

SECTION 3. IC 6-1.1-19-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A county board of tax adjustment may not approve or recommend the approval of an excessive tax levy.

(b) If a school corporation adopts or advertises an excessive tax levy, the county board of tax adjustment which reviews the school corporation's budget, tax levy, and tax rate shall reduce the excessive tax levy to the maximum normal tax levy.

(c) If a county board of tax adjustment approves, or recommends the approval of, an excessive tax levy for a school corporation, the auditor of the county for which the county board is acting shall reduce the excessive tax levy to the maximum normal tax levy. Such a reduction shall be set out in the notice required to be published by the auditor under IC 6-1.1-17-12, and an appeal shall be permitted therefrom as provided under IC 6-1.1-17 as modified by this chapter.

(d) Appeals from any action of a county board of tax adjustment or county auditor in respect of a school corporation's budget, tax levy, or tax rate may be taken as provided for by IC 6-1.1-17. Notwithstanding IC 6-1.1-17, a school corporation may appeal to the department of local government finance for emergency financial relief for the ensuing calendar year at any time before:

(1) September 20 of the calendar year immediately preceding the ensuing calendar year; or
(2) in the case of a request described in section 4.7(a) of this chapter:

(A) December 31 of the calendar year immediately preceding the ensuing calendar year; or
(B) with the approval of the county fiscal body of the county in which the school corporation is located, March 1 of the ensuing calendar year.

(e) In the appeal petition in which a school corporation seeks emergency financial relief, the appellant school corporation shall allege that, unless it is given the emergency financial relief for which it petitions, it will be unable to carry out, in the ensuing calendar year, the public educational duty committed to it by law, and it shall support that allegation by reasonably detailed statements of fact.

(f) When an appeal petition in which a school corporation petitions for emergency financial relief is filed with the department of local government finance, the department shall include, in the notice of the hearing in respect of the petition that it is required to give under IC 6-1.1-17-16, a statement to the effect that the appellant school corporation is seeking emergency financial relief for the ensuing calendar year. A subsequent action taken by the department of local government finance in respect of such an appeal petition is not invalid, however, or otherwise affected, if the department fails to include such a statement in the hearing notice.

(g) The fiscal officer of a school corporation that appeals under section 4.7(a) of this chapter for relief from levy limitations under this chapter shall immediately file a copy of the appeal petition with the county auditor and the county treasurer of the county in which the unit is located.

SECION 4. IC 6-1.1-21-2. AS AMENDED BY P.L.1-2005 SECTION 92, AND AS AMENDED BY P.L.246-2005. SECTION 64, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter:

(a) "Taxpayer" means a person who is liable for taxes on property assessed under this article.

(b) "Taxes" means property taxes payable in respect to property...
assessed under this article. The term does not include special assessments, penalties, or interest, but does include any special charges which a county treasurer combines with all other taxes in the preparation and delivery of the tax statements required under IC 6-1.1-22-8(a).

(c) "Department" means the department of state revenue.

(d) "Auditor's abstract" means the annual report prepared by each county auditor which under IC 6-1.1-22-5 is to be filed on or before March 1 of each year with the auditor of state.

(e) "Mobile home assessments" means the assessments of mobile homes made under IC 6-1.1-7.

(f) "Postabstract adjustments" means adjustments in taxes made subsequent to the filing of an auditor's abstract which change assessments therein or add assessments of omitted property affecting taxes for such assessment year.

(g) "Total county tax levy" means the sum of:
   (1) the remainder of:
      (A) the aggregate levy of all taxes for all taxing units in a county which are to be paid in the county for a stated assessment year as reflected by the auditor's abstract for the assessment year, adjusted, however, for any postabstract adjustments which change the amount of the aggregate levy; minus
      (B) the sum of any increases in property tax levies of taxing units of the county that result from appeals described in:
         (i) IC 6-1.1-18.5-13(4) and IC 6-1.1-18.5-13(5) filed after December 31, 1982; plus
         (ii) the sum of any increases in property tax levies of taxing units of the county that result from any other appeals described in IC 6-1.1-18.5-13 filed after December 31, 1983; plus
         (iii) IC 6-1.1-18.6-3 (children in need of services and delinquent children who are wards of the county); minus
      (C) the total amount of property taxes imposed for the stated assessment year by the taxing units of the county under the authority of IC 12-1-11.5 (repealed), IC 12-2-4.5 (repealed), IC 12-19-5, or IC 12-20-4; minus
      (D) the total amount of property taxes to be paid during the stated assessment year that will be used to pay for interest or principal due on debt that:
         (i) is entered into after December 31, 1983; minus
         (ii) is not debt that is issued under IC 5-1-5 to refund debt incurred before January 1, 1984; and
         (iii) does not constitute debt entered into for the purpose of building, repairing, or altering school buildings for which the requirements of IC 20-5-52 (repealed) were satisfied prior to January 1, 1984; minus
      (E) the amount of property taxes imposed in the county for the stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus
      (F) the remainder of:
         (i) the total property taxes imposed in the county for the stated assessment year under authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus
         (ii) the total property taxes imposed in the county for the 1984 stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus
         (G) the amount of property taxes imposed in the county for the stated assessment year under:
            (i) IC 21-2-15 for a capital projects fund; plus
            (ii) IC 6-1.1-19-10 for a racial balance fund; plus
            (iii) IC 36-12-12 for a library capital projects fund; plus
            (iv) IC 36-10-13-7 for an art association fund; plus
            (v) IC 21-2-17 for a special education preschool fund; plus
            (vi) IC 21-2-11.6 for a referendum tax levy fund; plus
            (vii) an appeal filed under IC 6-1.1-19.5-1 for an increase in a school corporation's maximum permissible general fund levy for certain transfer tuition costs; plus
            (viii) an appeal filed under IC 6-1.1-19.5-4 for an increase in a school corporation's maximum permissible general fund levy for transportation operating costs; minus
      (H) the amount of property taxes imposed by a school corporation that is attributable to the passage, after 1983, of a referendum for an excessive tax levy under IC 6-1.1-19, including any increases in these property taxes that are attributable to the adjustment set forth in IC 6-1.1-19.5 or any other law; minus
   (I) for each township in the county, the lesser of:
      (i) the sum of the amount determined in IC 6-1.1-18.5-19(a) STEP THREE or IC 6-1.1-18.5-19(b) STEP THREE, whichever is applicable, plus the part, if any, of the township's ad valorem property tax levy for calendar year 1989 that represents increases in that levy that resulted from an appeal described in IC 6-1.1-18.5-13(4) filed after December 31, 1982; or
      (ii) the amount of property taxes imposed in the township for the stated assessment year under the authority of IC 36-8-13-4; minus
   (J) for each participating unit in a fire protection territory established under IC 36-8-19-1, the amount of property taxes levied by each participating unit under IC 36-8-19-8 and IC 36-8-19-8.5 less the maximum levy limit for each of the participating units that would have otherwise been available for fire protection services under IC 6-1.1-18.5-3 and IC 6-1.1-18.5-19 for that same year; minus
   (K) for each county, the sum of:
      (i) the amount of property taxes imposed in the county for the repayment of loans under IC 12-19-5-6 (repealed) that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN for property taxes payable in 1995, or for property taxes payable in each year after 1995, the amount determined under IC 12-19-7-4(b); and
      (ii) the amount of property taxes imposed in the county attributable to appeals granted under IC 6-1.1-18.6-3 that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN for property taxes payable in 1995, or the amount determined under IC 12-19-7-4(b) for property taxes payable in each year after 1995; plus
   (2) all taxes to be paid in the county in respect to mobile home assessments currently assessed for the year in which the taxes stated in the abstract are to be paid; plus
   (3) the amounts, if any, of county adjusted gross income taxes that were applied by the taxing units in the county as property tax replacement credits to reduce the individual levies of the taxing units for the assessment year, as provided in IC 6-3.5-1.1; plus
   (4) the amounts, if any, by which the maximum permissible ad valorem property tax levies of the taxing units of the county were reduced under IC 6-1.1-18.5-3(b) STEP EIGHT for the stated assessment year; plus
   (5) the difference between:
      (A) the amount determined in IC 6-1.1-18.5-3(e) STEP FOUR; minus
      (B) the amount of the civil tax units' levies were increased because of the reduction of the civil taxing units' base year certified shares under IC 6-1.1-18.5-3(e).

(h) "December settlement sheet" means the certificate of settlement filed by the county auditor with the auditor of state, as required under IC 6-1.1-27-3.

(i) "Tax duplicate" means the roll of property taxes which each county auditor is required to prepare on or before March 1 of each year under IC 6-1.1-22-3.
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[(j)] "Eligible property tax replacement amount" is, except as otherwise provided by law, equal to the sum of the following:

1. Sixty percent (60%) of the total county tax levy imposed by each school corporation in a county for its general fund for a stated assessment year.
2. Twenty percent (20%) of the total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) imposed in a county on real property for a stated assessment year.
3. Twenty percent (20%) of the total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) imposed in a county on tangible personal property, excluding business personal property, for an assessment year.

(k) "Business personal property" means tangible personal property (other than real property) that is being:

1. Held for sale in the ordinary course of a trade or business; or
2. Held, used, or consumed in connection with the production of income.

(l) "Taxpayer's property tax replacement credit amount" means, except as otherwise provided by law, the sum of the following:

1. Sixty percent (60%) of a taxpayer's tax liability in a calendar year for taxes imposed by a school corporation for its general fund for a stated assessment year.
2. Twenty percent (20%) of a taxpayer's tax liability for a stated assessment year for a total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) on real property.
3. Twenty percent (20%) of a taxpayer's tax liability for a stated assessment year for a total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) on tangible personal property other than business personal property.

(m) "Tax liability" means tax liability as described in section 5 of this chapter.

(n) "General school operating levy" means the ad valorem property tax levy of a school corporation in a county for the school corporation's general fund.

(a) "Board" refers to the property tax replacement fund board established under section 10 of this chapter.

SECTION 5. IC 6-1.1-22-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in subsection (b), the auditor of each county shall, before March 15 of each year, prepare a roll of property taxes payable in that year for the county. This roll shall be known as the "tax duplicate" and shall show:

1. The value of all the assessed property of the county;
2. The person liable for the taxes on the assessed property; and
3. Any other information that the state board of accounts, with the advice and approval of the department of local government finance, may prescribe.

(b) If the county auditor receives a copy of an appeal petition under IC 6-1.1-18.5-12(g) or IC 6-1.1-19-2(g) before the county auditor completes preparation of the tax duplicate under subsection (a), the county auditor shall complete preparation of the tax duplicate when the appeal is resolved by the department of local government finance.

(c) If the county auditor receives a copy of an appeal petition under IC 6-1.1-18.5-12(g) or IC 6-1.1-19-2(g) after the county auditor completes preparation of the tax duplicate under subsection (a), the county auditor shall prepare a revised tax duplicate when the appeal is resolved by the department of local government finance that reflects the action of the department.

(d) The county auditor shall comply with the instructions issued by the state board of accounts for the preparation, preservation, alteration, and maintenance of the tax duplicate. The county auditor shall deliver a copy of the tax duplicate prepared under subsection (a) to the county treasurer before March 15 of each year when preparation of the tax duplicate is completed.

SECTION 6. IC 6-1.1-22-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsections (b) and (c), on or before March 15 of each year, the county auditor shall prepare and deliver to the auditor of state and the county treasurer a certified copy of an abstract of the property, assessments, taxes, deductions, and exemptions for taxes payable in that year in each taxing district of the county. The county auditor shall prepare the abstract in such a manner that the information concerning property tax deductions reflects the total amount of each type of deduction. The abstract shall also contain a statement of the taxes and penalties unpaid in each taxing unit at the time of last settlement between the county auditor and county treasurer and the status of these delinquencies. The county auditor shall prepare the abstract on the form prescribed by the state board of accounts. The auditor of state, county auditor, and county treasurer shall each keep a copy of the abstract in his office as a public record.

(b) If the county auditor receives a copy of an appeal petition under IC 6-1.1-18.5-12(g) or IC 6-1.1-19-2(g) before the county auditor prepares and delivers the certified copy of the abstract under subsection (a), the county auditor shall prepare and deliver the certified copy of the abstract when the appeal is resolved by the department of local government finance.

(c) If the county auditor receives a copy of an appeal petition under IC 6-1.1-18.5-12(g) or IC 6-1.1-19-2(g) after the county auditor prepares and delivers the certified copy of the abstract under subsection (a), the county auditor shall prepare and deliver a certified copy of a revised abstract when the appeal is resolved by the department of local government finance that reflects the action of the department.

SECTION 7. IC 6-1.1-22-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Except as provided in IC 6-1.1-7-7, section 9.5 of this chapter, and subsections (b) and (c) the property taxes assessed for a year under this article are due in two (2) equal installments on May 10 and November 10 of the following year.

(b) Subsection (a) does not apply if any of the following apply to the property taxes assessed for the year under this article:

1. Subsection (c).
2. Subsection (d).
3. IC 6-1.1-7-7.

(c) Section 9.5 of this chapter.

(b) (c) A county council may adopt an ordinance to require a person to pay the person's property tax liability in one (1) installment, if the tax liability for a particular year is less than twenty-five dollars ($25). If the county council has adopted such an ordinance, then whenever a tax statement mailed under section 8 of this chapter shows that the person's property tax liability for a year is less than twenty-five dollars ($25) for the property covered by that statement, the tax liability for that year is due in one (1) installment on May 10 of that year.

(d) If the county treasurer receives a copy of an appeal petition under IC 6-1.1-18.5-12(g) or IC 6-1.1-19-2(g) before the county treasurer mails or transmits statements under section 8(a) of this chapter, the county auditor may:

1. Mail or transmit the statements without regard to the pendency of the appeal and, if the resolution of the appeal by the department of local government finance results in changes in levies, mail or transmit reconciling statements under subsection (e); or
2. Delay the mailing or transmission of statements under section 8(a) of this chapter so that:

(A) The due date of the first installment that would otherwise be due under subsection (a) is delayed by not more than sixty (60) days; and
(B) all statements reflect any changes in levies that result from the resolution of the appeal by the department of local government finance.

(e) A reconciling statement under subsection (d)(1) must indicate:

1. The total amount due for the year;
2. The total amount of the installments paid that did not reflect the resolution of the appeal under IC 6-1.1-18.5-12(g) or IC 6-1.1-19-2(g) by the department of local government finance;
3. If the amount under subdivision (1) exceeds the amount under subdivision (2), the adjusted amount that is payable
by the taxpayer:
(A) as a final reconciliation of all amounts due for the year; and
(B) not later than:
   (i) November 10; or
   (ii) the date or dates established under section 9.5 of this chapter; and

(4) if the amount under subdivision (2) exceeds the amount under subdivision (1), that the taxpayer may claim a refund of the excess under IC 6-1.1-26.

(5) (f) If property taxes are not paid on or before the due date, the penalties prescribed in IC 6-1.1-37-10 shall be added to the delinquent taxes.

(5) (g) Notwithstanding any other law, a property tax liability of less than five dollars ($5) is increased to five dollars ($5). The difference between the actual liability and the five dollar ($5) amount that appears on the statement is a statement processing charge. The statement processing charge is considered a part of the tax liability.

SECTION 8. IC 6-1.1-22-9.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9.5. (a) This section applies only to property taxes first due and payable in a year that begins after December 31, 2003:

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

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

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

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

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

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

(c) The department of local government finance:

(1) may not establish a date for:
   (A) an installment payment that is earlier than May 10 of the year in which the tax statement is mailed or transmitted;
   (B) the first installment payment that is later than November 10 of the year in which the tax statement is mailed or transmitted; or
   (C) the last installment payment that is later than May 10 of the year immediately following the year in which the tax statement is mailed or transmitted; and

(2) shall:
   (A) prescribe the form of the petition under subsection (b);
   (B) determine the information required on the form; and
   (C) notify the county fiscal body, the county auditor, and the county treasurer of the department's determination on the petition not later than twenty (20) days after receiving the petition.

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

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

(2) may be:
   (A) used to repay temporary loans entered into by a political subdivision for; and
   (B) expended for any other reason by a political subdivision in the year the revenue is received under an appropriation from;

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

SECTION 9. IC 6-1.1-22.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Except as provided in subsection (c), with respect to property taxes payable under this article on assessments determined for the 2003 assessment date or the assessment date in any later year, the county treasurer may, except as provided by section 7 of this chapter, use a provisional statement under this chapter if the county auditor fails to deliver the abstract for that assessment date to the county treasurer under IC 6-1.1-22-5 before March 16 of the year following the assessment date.

(b) The county treasurer shall give notice of the provisional statement, including disclosure of the method that is to be used in determining the tax liability to be indicated on the provisional statement, by publication one (1) time:

(1) in the form prescribed by the department of local government finance; and

(2) in the manner described in IC 6-1.1-22-4(b). The notice may be combined with the notice required under section 10 of this chapter.

(c) Subsection (a) does not apply if the county auditor fails to deliver the abstract as provided in IC 6-1.1-22-5(b).

SECTION 10. IC 6-1.1-37-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) This section applies when:

(1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were originally due;

(2) the assessment upon which a taxpayer has been paying taxes under IC 6-1.1-15-10(a)(1) or (2) IC 6-1.1-15-10(a)(2) while a petition for review or a judicial proceeding has been pending is less than the assessment that results from the final determination of the petition for review or judicial proceeding; or

(3) the collection of certain ad valorem property taxes has been stayed under IC 4-21.5-5-9, and under the final determination of the petition for judicial review the taxpayer is liable for at least part of those taxes.

(b) Except as provided in subsections (e) and (g), a taxpayer shall pay interest on the taxes the taxpayer is required to pay as a result of an action or a determination described in subsection (a) at the rate of ten percent (10%) per year from the original due date or dates for those taxes to:

(1) the date of payment; or

(2) the date on which penalties for the late payment of a tax installment may be charged under subsection (e) or (f); whichever occurs first.

(c) Except as provided in subsection (g), a taxpayer shall pay interest on the taxes the taxpayer is required to pay as a result of an action or a determination described in subsection (a) at the rate of

(1) the date of payment; or

(2) the date on which penalties for the late payment of a tax installment may be charged under subsection (e) or (f); whichever occurs first.

(d) With respect to an action or determination described in subsection (a), the taxpayer shall pay the taxes resulting from that action or determination and the interest prescribed under subsection (b) or (c) on or before:

(1) the next May 10; or

(2) the next November 10; whichever occurs first.

(e) A taxpayer shall, to the extent that the penalty is not waived under section 10.5 or 10.7 of this chapter, begin paying the penalty prescribed in section 10 of this chapter on the day after the date for payment prescribed in subsection (d) if:

(1) the taxpayer has not paid the amount of taxes resulting from the action or determination; and

(2) the taxpayer either:
   (A) received notice of the taxes the taxpayer is required to pay as a result of the action or determination at least thirty (30) days before the date for payment; or
   (B) voluntarily signed and filed an assessment return for the
taxes.

(f) If subsection (c) does not apply, a taxpayer who has not paid the amount of taxes resulting from the action or determination shall, to the extent that the penalty is not waived under section 10.5 or 10.7 of this chapter, begin paying the penalty prescribed in section 10 of this chapter:

(1) the next May 10 which follows the date for payment prescribed in subsection (d); or
(2) the next November 10 which follows the date for payment prescribed in subsection (d); whichever occurs first.

(g) A taxpayer is not subject to the payment of interest on real property assessments under subsection (b) or (c) if:

(1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were due;
(2) the assessment or the assessment increase is made as the result of error or neglect by the assessor or by any other official involved with the assessment of property or the collection of property taxes; and
(3) the assessment:
    (A) would have been made on the normal assessment date if the error or neglect had not occurred; or
    (B) increase would have been included in the assessment on the normal annual assessment date if the error or neglect had not occurred.

SECTION 11. IC 6-1.1-37-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 10. (a) Except as provided in section 10.5 sections 10.5 and 10.7 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. The penalty is equal to an amount determined as follows:

(1) If:
    (A) an installment of property taxes is completely paid on or before the date thirty (30) days after the due date; and
    (B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous year for the same parcel;
    the amount of the penalty is equal to five percent (5%) of the amount of delinquent taxes.

(2) If subdivision (1) does not apply, the amount of the penalty is equal to ten percent (10%) of the amount of delinquent taxes.

(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) 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 the county treasurer or a collecting agent appointed by the county treasurer;
(2) deposited in the United States 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 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.

SECTION 12. IC 6-1.1-37-10.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10.7. (a) For purposes of this section, "immediate family member of the taxpayer" means an individual who:

(1) is the spouse, child, stepchild, parent, or stepparent of the taxpayer, including adoptive relationships; and
(2) resides in the taxpayer's home.

(b) The county treasurer shall do the following:

(1) Waive the penalty imposed under section 10(a) of this chapter if the taxpayer or the taxpayer's representative:
    (A) petitions the county treasurer to waive the penalty not later than thirty (30) days after the due date of the installment subject to the penalty; and
    (B) files with the petition written proof that during the seven (7) day period ending on the installment due date the taxpayer or an immediate family member of the taxpayer died.

(2) Give written notice to the taxpayer or the taxpayer's representative by mail of the treasurer's determination on the petition not later than thirty (30) days after the petition is filed with the treasurer.

(c) The department of local government finance shall prescribe:

(1) the form of the petition; and
(2) the type of written proof required under subsection (b).

(d) A taxpayer or a taxpayer's representative may appeal a determination of the county treasurer under subsection (b) to deny a penalty waiver by requesting in writing a preliminary conference with the treasurer not more than forty-five (45) days after the treasurer gives the taxpayer or the taxpayer's representative notice of the determination. An appeal initiated under this subsection is processed and determined in the same manner that an appeal is processed and determined under IC 6-1.1-15.

SECTION 13. IC 14-33-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) An assessment not paid in full shall be paid in annual installments over the time commensurate with the term of the bond issue or other financing determined by resolution adopted by the board. Interest shall be charged on the unpaid balance at the same rate per year as the penalty charged on delinquent property tax payments under IC 6-1.1-37-10: IC 6-1.1-37-10(a). All payments of installments, interest, and penalties shall be entered on the assessment roll in the office of the district.

(b) Upon payment in full of the assessment, including interest and penalties, the board shall have the lien released and satisfied on the records in the office of the recorder of the county in which the real property assessed is located.

(c) The procedure for collecting assessments for maintenance and operation is the same as for the original assessment, except that the assessments may not be paid in installments.

SECTION 14. IC 36-9-36-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 37. (a) Except as provided in section 38 of this chapter, the entire assessment is payable in cash without interest not later than thirty (30) days after the
approval of the assessment roll by the works board if an agreement has not been signed and filed under section 36 of this chapter.

(b) If the assessment is not paid when due, the total assessment becomes delinquent and bears interest at the rate prescribed by IC 6-1.1-37-10 per year from the date of the final acceptance of the completed improvement by the works board.

SECTION 15. IC 36-9-36-55 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 55. (a) An irregularity or error in making a foreclosure sale under this chapter does not make the sale ineffective, unless the irregularity or error substantially prejudiced the property owner.

(b) A property owner has two (2) years from the date of sale in which to redeem the owner's property. The property owner may redeem the owner's property by paying the principal, interest, and costs of the judgment, plus interest on the principal, interest, and costs at the rate prescribed by IC 6-1.1-37-10(a).

(c) If the property is not redeemed, the sheriff shall execute a deed to the purchaser. The deed relates back to the final letting of the contract for the improvement and is superior to all liens, claims, and interests, except liens for taxes.

SECTION 16. IC 36-9-37-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 19. (a) If a person defaults in the payment of a waived installment of principal or interest of an assessment, the municipal fiscal officer shall mail notice of the default to the person. The notice must meet the following conditions:

(1) Be mailed not more than sixty (60) days after the default.
(2) Show the amount of the default, plus interest on that amount for the number of months the person is in default at one-half (½) the rate prescribed by IC 6-1.1-37-10(a).
(3) State that the amount of the default, plus interest, is due by the date determined as follows:
   - (A) If the person selected monthly installments under IC 36-9-37-8.5(a)(1), section 8.5(a)(2) of this chapter, within sixty (60) days after the date the notice is mailed.
   - (B) If the person selected annual installments under IC 36-9-37-8.5(a)(2), section 8.5(a)(1) of this chapter, within six (6) months after the date the notice is mailed.
   - (B) A notice that is mailed to the person in whose name the property is assessed and addressed to the person within the municipality is sufficient notice. However, the fiscal officer shall also attempt to determine the name and address of the current owner of the property and send a similar notice to the current owner.
(c) Failure to send the notice required by this section does not preclude or otherwise affect the following:
   - (1) The sale of the property for delinquency as prescribed by IC 6-1.1-24.
   - (2) The foreclosure of the assessment lien by the bondholder.
   - (3) The preservation of the assessment lien under section 22.5 of this chapter.

SECTION 17. IC 36-9-37-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 20. (a) If any principal and interest, or an installment of principal and interest, is not paid in full when due, the municipal fiscal officer shall enforce payment of the following:

(1) The unpaid amount of principal and interest.
(2) A penalty of interest at the rate prescribed by subsection (b).
(b) If payment is made after a default, the municipal fiscal officer shall also collect a penalty of interest on the delinquent amount at one-half (½) the rate prescribed by IC 6-1.1-37-10 for each six (6) month period, or fraction of a six (6) month period, from the date when payment should have been made.

SECTION 18. [EFFECTIVE JANUARY 1, 2007] IC 6-1.1-37-10, as amended by this act, applies only to ad valorem property taxes first due and payable after December 31, 2006.

SECTION 19. [EFFECTIVE UPON PASSAGE] (a) For ad valorem property taxes and assessments first due and payable in 2006:

(1) notwithstanding IC 6-1.1-18.5-12, as amended by this act, that section applies as if the date in IC 6-1.1-18.5-12(a)(2)(B) were April 1 instead of March 1; and
(2) notwithstanding IC 6-1.1-19-2, as amended by this act, that section applies as if the date in IC 6-1.1-19-2(d)(2)(B) were April 1 instead of March 1.

(b) This SECTION expires January 1, 2007.

SECTION 20. [EFFECTIVE UPON PASSAGE] IC 6-1.1-18.5-12, IC 6-1.1-19-2, IC 6-1.1-22-3, IC 6-1.1-22-5, IC 6-1.1-22-9, IC 6-1.1-22-9.5, and IC 6-1.1-22.5-6, all as amended by this act, apply only to property taxes first due and payable after December 31, 2005.

SECTION 21. [EFFECTIVE JULY 1, 2006] IC 6-1.1-37-10.7, as added by this act, applies only to property taxes first due and payable after December 31, 2006.

SECTION 22. [EFFECTIVE JANUARY 1, 2006 (RETOACTIVE)] (a) As used in this SECTION, "taxable year" has the meaning set forth in IC 6-3-1-16.

(b) In addition to any other deduction permitted under IC 6-3, a delayed property tax payment made in taxable year 2005 for property taxes assessed in 2002, 2003, or 2004 assessment years:
   (1) that would have been payable in 2003, 2004, or a part of calendar year 2005 that preceded the beginning of the taxpayer's 2005 taxable year if tax statements had been issued in those years; and
   (2) where the taxpayer was not delinquent in remitting the property tax to the county treasurer when paid in taxable year 2005;

   is deductible from adjusted gross income under IC 6-3-1.3-5 in the 2006 taxable year if the property tax was not deducted in any previous taxable year. The amount of the deduction for the property taxes due for a particular assessment year is limited to the lesser of the property tax paid for the assessment year or two thousand five hundred dollars ($2,500).

SECTION 23. An emergency is declared for this act.

Renumber all SECTIONS consecutively.

(Reference is to ESB 355 as reprinted February 28, 2006.)

C. LAWSON AYMES
ROGERS KUZMAN
Senate Conferees House Conferees

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

CONFEREICE COMMITTEE REPORT
ESB 340–1; filed March 10, 2006, at 4:07 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 340 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 4-15-1.8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2005 (RETOACTIVE)]; Sec. 7. (a) The department shall do the following:

(1) Develop personnel policies, methods, procedures, and standards for all state agencies.
(2) Formulate, establish, and administer position classification plans and salary and wage schedules, all subject to final approval by the governor.
(3) Allocate positions in the state agencies to their proper classifications.
(4) Approve employees for transfer, demotion, promotion, suspension, layoff, and dismissal.
(5) Rate employees' service.
(6) Arrange with state agency heads for employee training.
(7) Investigate the need for positions in the state agencies.
(8) Promulgate and enforce personnel rules.
(9) Make and administer examinations for employment and for promotions.
(10) Maintain personnel records and a roster of the personnel of all state agencies.
(11) Render personnel services to the political subdivisions of the state.
(12) Investigate the operation of personnel policies in all state agencies.
(13) Assist state agencies in the improvement of their personnel procedures.
(14) Conduct a vigorous program of recruitment of qualified and able persons for the state agencies.
(15) Advise the governor and the general assembly of legislation needed to improve the personnel system of this state.
(16) Furnish any information and counsel requested by the governor or the general assembly.
(17) Establish and administer an employee training and career advancement program.
(18) Administer the state personnel law, IC 4-15-2.
(19) Institute an employee awards system designed to encourage all state employees to submit suggestions that will reduce the costs or improve the quality of state agencies.
(20) Survey the administrative organization and procedures, including personnel procedures, of all state agencies, and submit to the governor measures to secure greater efficiency and economy, to minimize the duplication of activities, and to effect better organization and procedures among state agencies.
(21) Establish, implement, and maintain the state aggregate prescription drug purchasing program established under IC 16-47-1, as approved by the budget agency.

(b) Salary and wage schedules established by the department under subsection (a) must provide:

(1) for the establishment of overtime policies, which must include: the following
   (A) definition of overtime;
   (B) determination of employees or classes eligible for overtime pay;
   (C) procedures for authorization;
   (D) methods of computation;
   (E) procedures for payment; and
   (F) a provision that there shall be no mandatory adjustments to an employee's established work schedule in order to avoid the payment of overtime; and

(2) that an appointing authority is not required to reduce the salary of an employee who is demoted, unless the appointing authority determines that the salary reduction is warranted for disciplinary reasons or other good cause.

(c) The state personnel advisory board shall advise the director and cooperate in the improvement of all the personnel policies of the state.

(d) The department shall establish programs of temporary appointment for employees of state agencies. A program established under this subsection must contain at least the following provisions:

(1) A temporary appointment may not exceed one hundred eighty (180) working days in any twelve (12) month period.
(2) The department may allow exceptions to the prohibition in subdivision (1) with the approval of the state budget agency.
(3) A temporary appointment in an agency covered by IC 4-15-2 is governed by the procedures of that chapter.
(4) A temporary appointment does not constitute a creditable service for purposes of the public employees' retirement program under IC 5-10.2 and IC 5-10.3. However, an employee who served in an intermittent form of temporary employment after June 30, 1986, and before July 1, 2003, shall receive creditable service for the period of temporary employment.

SECTION 2. IC 5-10-8-7, AS AMENDED BY HEA 1134-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) The state, excluding state educational institutions (as defined by IC 20-12-0.5-1), may not purchase or maintain a policy of group insurance, except:

(1) life insurance for the state's employees;
(2) long term care insurance under a long term care insurance policy (as defined in IC 27-8-3-2-5), for the state's employees, or
(3) an accident and sickness insurance policy (as defined in IC 27-8-5.6-1) that covers individuals to whom coverage is provided by a local unit under section 6.6 of this chapter; or
(4) an insurance policy that provides coverage that supplements coverage provided under a United States military health care plan.

(b) With the consent of the governor, the state personnel department may establish self-insurance programs to provide group insurance other than life or long term care insurance for state employees and retired state employees. The state personnel department may contract with a private agency, business firm, limited liability company, or corporation for administrative services. A commission may not be paid for the placement of the contract. The department may require, as part of a contract for administrative services, that the provider of the administrative services offer to an employee terminating state employment the option to purchase, without evidence of insurability, an individual policy of insurance.

(c) Notwithstanding subsection (a), with the consent of the governor, the state personnel department may contract for health services for state employees and individuals to whom coverage is provided by a local unit under section 6.6 of this chapter through one (1) or more prepaid health care delivery plans.

(d) The state personnel department shall adopt rules under IC 4-22-2 to establish long term and short term disability plans for state employees (except employees who hold elected offices (as defined by IC 3-5-2-17)). The plans adopted under this subsection may include any provisions the department considers necessary and proper and must:

(1) require participation in the plan by employees with six (6) months of continuous, full-time service;
(2) require an employee to make a contribution to the plan in the form of a payroll deduction;
(3) require that an employee's benefits under the short term disability plan be subject to a thirty (30) day elimination period and that benefits under the long term plan be subject to a six (6) month elimination period;
(4) prohibit the termination of an employee who is eligible for benefits under the plan;
(5) provide, after a seven (7) day elimination period, eighty percent (80%) of base biweekly wages for an employee disabled by injuries resulting from tortious acts, as distinguished from passive negligence, that occur within the employee's scope of state employment;
(6) provide that an employee's benefits under the plan may be reduced, dollar for dollar, if the employee derives income from:
   (A) Social Security;
   (B) the public employees' retirement fund;
   (C) the Indiana state teachers' retirement fund;
   (D) pension disability;
   (E) worker's compensation;
   (F) benefits provided from another employer's group plan; or
   (G) remuneration for employment entered into after the disability was incurred.

The department of state revenue and the department of workforce development shall cooperate with the state personnel department to confirm that an employee has disclosed complete and accurate information necessary to administer subdivision 6. If an employee will not receive benefits under the plan for a disability resulting from causes specified in the rules, and

(8) provide that, if an employee refuses to:
   (A) accept work assignments appropriate to the employee's medical condition;
   (B) submit information necessary for claim administration;
   or
   (C) submit to examinations by designated physicians; the employee forfeits benefits under the plan.

(e) This section does not affect insurance for retirees under IC 5-10.3 or IC 5-10.4.

(f) The state may pay part of the cost of self-insurance or prepaid health care delivery plans for its employees.

(g) A state agency may not provide any insurance benefits to its employees that are not generally available to other state employees, unless specifically authorized by law.

(h) The state may pay a part of the cost of group medical and life coverage for its employees.

SECTION 3. IC 5-10-3.6-8.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS
(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 does not have the required (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.

(j) 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.

(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 5. An emergency is declared for this act.

(Reference is to ESB 340 as printed February 24, 2006.)

CONFEREES AND ADVISORS APPOINTED

The Speaker announced the appointment of Representatives to conference committees on the following Engrossed Senate Bills:

ESB 339

Conferees: Duncan and Pf lum

Advocates: Wilkins and Tyler
The Speaker yielded the gavel to the Deputy Speaker Pro Tempore, Representative T. Brown.

House Concurrent Resolution 72

Representatives Klinker, Micon, and T. Brown introduced House Concurrent Resolution 72:

A CONCURRENT RESOLUTION memorializing U.S. Army Specialist Matthew C. Frantz.

Whereas, U.S. Army Specialist Matthew C. Frantz, Lafayette, Indiana, was killed January 20, 2006, when an improvised explosive device detonated near his Humvee during patrol operations in Huwijah, Iraq;

Whereas, Specialist Frantz was a 23-year-old counterintelligence specialist assigned to the 1st Special Troops Battalion, 1st Brigade Combat Team, 101st Airborne Division;

Whereas, Specialist Frantz joined the U.S. Army in March, 2004, and arrived at Fort Campbell, Kentucky, in March, 2005;

Whereas, Specialist Frantz was committed to joining the military;

Whereas, After completing his senior year at Lafayette Jefferson High School, Specialist Frantz joined the U.S. Marine Corps but was discharged after suffering a serious knee injury before completing basic training;

Whereas, Working as a salesman until his knee healed enough for the Army to accept him, he enlisted in March 2004; and

Whereas, Specialist Matthew C. Frantz was a caring person who was dedicated to his family and friends; it was this dedication that lead him to fight for freedom for all. He is truly a great American hero: Therefore,

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

SECTION 1. That the Indiana General Assembly expresses its condolences on the death of U.S. Army Specialist Matthew C. Frantz and extends to his family sincere appreciation for his sacrifice defending freedom for all people.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Frantz’s parents James and Marilyn Frantz, brothers U.S. Navy Petty Officer 2nd Class Christopher Frantz and Airman 1st Class Eric Frantz, and fiancee Amalia B. Cerbin.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator Alting.

The House stood for a moment of silence in memory of U.S. Army Specialist Matthew C. Frantz.

House Concurrent Resolution 73

Representatives Behning and Whetstone introduced House Concurrent Resolution 73:

A CONCURRENT RESOLUTION congratulating the Plainfield Community School Corporation on having all its schools selected as Four Star School Award winners.

Whereas, The Four Star School Award is presented by Dr. Suellen Reed, Superintendent of Public Instruction for the state of Indiana, to schools in recognition of attaining scores in the top 25 percent of all Indiana schools in language arts, mathematics, total Indiana Statewide Testing for Educational Progress (ISTEP) battery, and attendance during a particular school year;

Whereas, For the second year in a row, the Plainfield Community School Corporation has fulfilled these requirements, making this school corporation the only school corporation in Indiana to have all its schools earn Four Star status;

Whereas, The students and teachers of Plainfield Community School Corporation have received this honor because of their hard work, dedication to improvement, and strong desire to learn;

Whereas, The success of the Plainfield Community School Corporation can be attributed to the efforts of the principals,

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator Miller.
teachers, staff, students, and parents of all the schools working together to maintain the high level of achievement at their school;

Whereas, The success of the Plainfield Community School Corporation can be credited to good leadership skills, exceptional teachers, outstanding students, and great staffs; and

Whereas, The schools of the Plainfield Community School Corporation, Plainfield High School, Plainfield Middle School, Brentwood Elementary School, Central Elementary School, and Van Buren Elementary School, make a strong statement about the quality of Indiana teachers and the high scholastic standards that exist in Hoosier schools: Therefore,

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

SECTION 1. That the Indiana General Assembly congratulates the students and teachers of the Plainfield Community School Corporation on the selection of each school as a Four Star School and on the effort put forth by the students, teachers, and parents in obtaining this award and urges them to continue to strive for excellence in education throughout their lives.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Dr. Jerry Holifield, superintendent of the Plainfield Community School Corporation.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator C. Lawson.

House Resolution 59

Representative Thomas introduced House Resolution 59:

A HOUSE RESOLUTION honoring the law enforcement professionals of the Indiana Sheriffs' Katrina Relief–New Orleans.

Whereas, Some of the most important members of relief teams are the dedicated law enforcement professionals;

Whereas, These tireless professionals offered help to those suffering from the effects of Hurricane Katrina;

Whereas, Devastation such as that caused by Hurricane Katrina affects every aspect of life;

Whereas, Deeper than the physical destruction of Hurricane Katrina, however, is the human toll;

Whereas, Law enforcement professionals were called upon to offer support and advice to people who had lost everything and to rescue workers who were forced to deal with death and loss;

Whereas, Rescue workers and public safety officials are often confronted with unfamiliar emotions;

Whereas, Without the help of these dedicated law enforcement professionals, the rescue effort would have been far less successful; and

Whereas, Throughout history there have been tales of the dedication and bravery of law enforcement professionals in times of great distress, and the members of Indiana Sheriffs' Katrina Relief–New Orleans have added their own stories to this history: 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 acknowledges the dedication and compassion of the law enforcement professionals of Indiana Sheriffs' Katrina Relief–New Orleans and thanks them for their tireless efforts on behalf of the victims of Hurricane Katrina.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit copies of this resolution to Delaware County Sheriff George E. Sheridan, Jr., Jay County Sheriff Todd A. Penrod, Putnam County Sheriff Mark T. Frisbie, Hendricks County Sheriff M. James Querry, Carroll County Sheriff Dennis J. Randle, Morgan County Sheriff Robert W. Garner, Madison County Sheriff R. Terry Richwine, Wabash County Sheriff Leroy W. Striker, Kosciusko County Sheriff C. Aaron Rovenstine, Vermillion County Sheriff Kim H. Hawkins, and LaPorte County Sheriff James R. Arnold.

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

House Resolution 60

Representative Kuzman introduced House Resolution 60:

A HOUSE RESOLUTION honoring the Dancing Devilins, Crown Point, Indiana.

Whereas, The Crown Point High School Dancing Devilins won first place for division with their pom routine at the Indiana High School Dance Team Association (IHSDTA) regional championships held in Fort Wayne;

Whereas, This talented team has earned several trophies for the school, including third place for pom/jazz at the Highland and Munster Invitational, second place in both pom and jazz at the Portage Invitational, second place in the pom category, and third place in jazz at the Lake Central event, the IHSDTA Regional Kick Champions for 2000, 2002, 2003, 2004, 2005, 2006, the IHSDTA State Kick Champion for 2003, 2004, 2005, 2006, third place in the 2006 UDA High Kick National Finalist, 10th place in the 2004 UDA High Kick National Finalist, 11th place in the 2004 UDA Large Varsity Pom National Finalist, 10th place in the 2005 UDA High Kick National Finalist, 9th place in the 2005 UDA Large Varsity Pom National Finalist, and 13th place in the 2006 UDA Large Varsity Pom National Finalist;

Whereas, The girls are also involved in student council, choir, show choir, orchestra, foreign language clubs, Rotary, tutoring, musicals, Girls Varsity Club, National Honor Society, and other
Whereas, The history of the Marine Corps is a long and proud heritage of faithful service to the United States; the Marines of Second Battalion, Fourth Marine Regiment, First Marine Division displayed leadership and resolve that will keep the Marine Corps the "best of the best"; 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 the Marines assigned to Second Battalion, Fourth Marine Regiment, First Marine Division.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Captain Christopher Bronzi, Staff Sergeant Dameon Rodriguez, Corporal Joseph Hayes, Lance Corporal Tom Krzesig, Sergeant Jon Embrey, Lance Corporal Peter Flom, and Captain Rob Scott.

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

Representative Torr, who had been excused, was present.

House Resolution 63

Representative Pelath introduced House Resolution 63:

A HOUSE RESOLUTION memorializing Joseph R. LaRocco.

Whereas, Joseph R. LaRocco was born in Michigan City, Indiana, on March 27, 1918, to Joseph and Maria LaRocco and died on May 16, 2005;

Whereas, Joseph married Mary Ann Von Hartz Miller on June 15, 1940, a union that lasted 62 years;

Whereas, Joseph R. LaRocco was one of the great Michigan City leaders of the twentieth century, serving as mayor and an at-large member of the city council;

Whereas, His greatest mayoral accomplishment was the construction of the current City Hall, dedicated on August 5, 1979;

Whereas, Joseph R. LaRocco was always regarded as a man who stood up for working people while making great efforts to advance their views and interests;

Whereas, His lifelong work in the service of the people continues to be held up as a shining example for local leaders everywhere;

Whereas, Joseph R. LaRocco was a retired Teamsters Union sales representative, a member of the Sacred Heart Catholic Church, and a member of the John Franklin Miller American Legion Post;

Whereas, Joseph R. LaRocco served his nation in the United States Army during World War II;

Whereas, Joseph R. LaRocco is survived by his son James T. LaRocco and his wife Suzanne, son David LaRocco and his wife Laura, son Michael A. LaRocco and his wife May, son Robert J. LaRocco, daughter Mary Ann Pawlik and her husband Ron, 14 grandchildren, 17 great-grandchildren, brother John LaRocco, and sister Sarah LaRocco;

Whereas, Joseph R. LaRocco was preceded in death by son Joseph R. LaRocco and brothers Peter and Vincent LaRocco; and

Whereas, Joseph R. LaRocco is greatly missed by his family, the people of Michigan City, and the state of 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 expresses its deepest sympathy to the family of Joseph R. LaRocco and its gratitude for his dedicated service to his community and his state.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the family of Joseph R. LaRocco.

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

House Resolution 64

Representatives V. Smith and Pierce introduced House Resolution 64:

Whereas, The history of the Marine Corps is a long and proud heritage of faithful service to the United States; the Marines of Second Battalion, Fourth Marine Regiment, First Marine Division displayed leadership and resolve that will keep the Marine Corps the "best of the best"; 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 the Marines assigned to Second Battalion, Fourth Marine Regiment, First Marine Division.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Captain Christopher Bronzi, Staff Sergeant Dameon Rodriguez, Corporal Joseph Hayes, Lance Corporal Tom Krzesig, Sergeant Jon Embrey, Lance Corporal Peter Flom, and Captain Rob Scott.

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

Representative Torr, who had been excused, was present.

House Resolution 63

Representative Pelath introduced House Resolution 63:

A HOUSE RESOLUTION memorializing Joseph R. LaRocco.

Whereas, Joseph R. LaRocco was born in Michigan City, Indiana, on March 27, 1918, to Joseph and Maria LaRocco and died on May 16, 2005;

Whereas, Joseph married Mary Ann Von Hartz Miller on June 15, 1940, a union that lasted 62 years;

Whereas, Joseph R. LaRocco was one of the great Michigan City leaders of the twentieth century, serving as mayor and an at-large member of the city council;

Whereas, His greatest mayoral accomplishment was the construction of the current City Hall, dedicated on August 5, 1979;

Whereas, Joseph R. LaRocco was always regarded as a man who stood up for working people while making great efforts to advance their views and interests;

Whereas, His lifelong work in the service of the people continues to be held up as a shining example for local leaders everywhere;

Whereas, Joseph R. LaRocco was a retired Teamsters Union sales representative, a member of the Sacred Heart Catholic Church, and a member of the John Franklin Miller American Legion Post;

Whereas, Joseph R. LaRocco served his nation in the United States Army during World War II;

Whereas, Joseph R. LaRocco is survived by his son James T. LaRocco and his wife Suzanne, son David LaRocco and his wife Laura, son Michael A. LaRocco and his wife May, son Robert J. LaRocco, daughter Mary Ann Pawlik and her husband Ron, 14 grandchildren, 17 great-grandchildren, brother John LaRocco, and sister Sarah LaRocco;

Whereas, Joseph R. LaRocco was preceded in death by son Joseph R. LaRocco and brothers Peter and Vincent LaRocco; and

Whereas, Joseph R. LaRocco is greatly missed by his family, the people of Michigan City, and the state of 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 expresses its deepest sympathy to the family of Joseph R. LaRocco and its gratitude for his dedicated service to his community and his state.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the family of Joseph R. LaRocco.

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

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Whereas, Joseph married Mary Ann Von Hartz Miller on June 15, 1940, a union that lasted 62 years;

Whereas, Joseph R. LaRocco was one of the great Michigan City leaders of the twentieth century, serving as mayor and an at-large member of the city council;

Whereas, His greatest mayoral accomplishment was the construction of the current City Hall, dedicated on August 5, 1979;

Whereas, Joseph R. LaRocco was always regarded as a man who stood up for working people while making great efforts to advance their views and interests;

Whereas, His lifelong work in the service of the people continues to be held up as a shining example for local leaders everywhere;

Whereas, Joseph R. LaRocco was a retired Teamsters Union sales representative, a member of the Sacred Heart Catholic Church, and a member of the John Franklin Miller American Legion Post;

Whereas, Joseph R. LaRocco served his nation in the United States Army during World War II;

Whereas, Joseph R. LaRocco is survived by his son James T. LaRocco and his wife Suzanne, son David LaRocco and his wife Laura, son Michael A. LaRocco and his wife May, son Robert J. LaRocco, daughter Mary Ann Pawlik and her husband Ron, 14 grandchildren, 17 great-grandchildren, brother John LaRocco, and sister Sarah LaRocco;

Whereas, Joseph R. LaRocco was preceded in death by son Joseph R. LaRocco and brothers Peter and Vincent LaRocco; and

Whereas, Joseph R. LaRocco is greatly missed by his family, the people of Michigan City, and the state of 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 expresses its deepest sympathy to the family of Joseph R. LaRocco and its gratitude for his dedicated service to his community and his state.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the family of Joseph R. LaRocco.

The resolution was read a first time and adopted by voice vote.
A HOUSE RESOLUTION honoring James E. Mumford on the occasion of his retirement.

Whereas, James E. Mumford will be retiring from Indiana University after a long and successful career;

Whereas, James E. Mumford has held many positions at Indiana University, including Director of the Afro-American Choral Ensemble, Assistant Director of Special Projects, Visiting Assistant Professor, Director of the Indiana University Soul Revue, and Director of the Summer Groups Revue Program;

Whereas, James E. Mumford received a Ph.D. from Indiana University School of Music with a major in music education and minors in voice and ethnomusicology, and a Master of Music Education;

Whereas, In addition to his studies at Indiana University, James E. Mumford has also earned a Bachelor of Science in Music Education from Virginia State University and has studied at the Philadelphia Musical Academy and Rutgers University;

Whereas, James E. Mumford has received numerous awards, including the Award for Outstanding Contributions and Excellence in Performance by Golden Key National Honor Society, the Award for Excellence in Teaching from the President of Indiana University, and was the first African-American to receive the Annual Staff Merit Award from Indiana University;

Whereas, James E. Mumford has also been honored by the Black Student Union and Student Organization with a scholarship named in his honor;

Whereas, James E. Mumford is a member of the Music Educators National Conference, the Equity Union for Theatre, the Black Music Caucus, Phi Delta Kappa, Indiana Music Education, the Association Society for Ethnomusicology, Omega Psi Phi Fraternity, Inc., and the Music Teachers National Association; and

Whereas, James E. Mumford has provided the students of Indiana University and the citizens of Indiana and the world with hours of musical enjoyment; his talent and expertise will be sorely missed by Indiana University and the state of 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 expresses its admiration for Keith Giuffre and his family for their tender care and loving devotion to their parents.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Mr. and Mrs. Keith Giuffre.

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

House Resolution 66

Representative C. Bottorff introduced House Resolution 66:

Whereas, In a world where relationships are sometimes fleeting, a marriage that endures for 50 years is something to be celebrated;

Whereas, Lauren Giuffre helped her parents celebrate their 50th anniversary with a special party;

Whereas, This party served as a symbol of Lauren Giuffre's great love and admiration for her parents; and

Whereas, Life is full of ups and downs, and family is what we all need to maintain our spirit and to help us remain anchored in the storm: 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 expresses its admiration for Lauren Giuffre's great love and admiration for her parents;

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Lauren Giuffre.

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

House Resolution 67

Representative C. Bottorff introduced House Resolution 67:

Whereas, In a world where relationships are sometimes fleeting, a marriage that endures for 50 years is something to be celebrated;

Whereas, Cory Giuffre and his family helped his parents celebrate their 50th anniversary with a special party;

Whereas, This party served as a symbol of Cory Giuffre's great love and admiration for his parents; and

Whereas, Life is full of ups and downs, and family is what we all need to maintain our spirit and to help us remain anchored in the storm: 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 expresses its admiration for Cory Giuffre and his family for their tender care and loving devotion to his parents.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Mr. and Mrs. Cory Giuffre.

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

House Resolution 68

Representative C. Bottorff introduced House Resolution 68:

Whereas, In a world where relationships are sometimes fleeting, a marriage that endures for 50 years is something to be celebrated;

Whereas, Keith Giuffre and his family helped his parents celebrate their 50th anniversary with a special party;

Whereas, This party served as a symbol of Keith Giuffre's great love and admiration for his parents; and

Whereas, Life is full of ups and downs, and family is what we all need to maintain our spirit and to help us remain anchored in the storm: 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 expresses its admiration for Keith Giuffre and his family for their tender care and loving devotion to his parents.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Keith Giuffre.

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

**House Resolution 69**
Representative C. Bottorff introduced House Resolution 69:
A HOUSE RESOLUTION honoring Kyle and Brittany Giuffre.

Whereas, In a world where relationships are sometimes fleeting, a marriage that endures for 50 years is something to be celebrated;
Whereas, Kyle Giuffre and his family helped his parents celebrate their 50th anniversary with a special party;
Whereas, This party served as a symbol of Kyle Giuffre's great love and admiration for his parents; and
Whereas, Life is full of ups and downs, and family is what we all need to maintain our spirit and to help us remain anchored in the storm: 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 expresses its admiration for Kyle Giuffre and his family for their tender care and loving devotion to his parents.
SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Kyle and Brittany Giuffre.

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

**House Resolution 70**
Representative C. Bottorff introduced House Resolution 70:
A HOUSE RESOLUTION honoring Dawn Giuffre.

Whereas, In a world where relationships are sometimes fleeting, a marriage that endures for 50 years is something to be celebrated;
Whereas, Dawn Giuffre helped her parents celebrate their 50th anniversary with a special party;
Whereas, This party served as a symbol of Dawn Giuffre's great love and admiration for her parents; and
Whereas, Life is full of ups and downs, and family is what we all need to maintain our spirit and to help us remain anchored in the storm: 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 expresses its admiration for Dawn Giuffre for her tender care and loving devotion to her parents.
SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Dawn Giuffre.

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

**Senate Concurrent Resolution 60**
The Speaker handed down Senate Concurrent Resolution 60, sponsored by Representatives Crouch and Hoy:

A CONCURRENT RESOLUTION congratulating the Castle High School girls basketball team on winning the Class 4A State Championship Title.

Whereas, The IHSAA 31st Annual Girls Basketball State Finals were held on March 4, 2006 at Conseco Fieldhouse in Indianapolis;
Whereas, In regional and semi-state competition, the Castle Knights defeated Jeffersonville, Bloomington North, and Hamilton Southeastern to earn the opportunity to compete in the State Finals;
Whereas, In both teams' first appearance in the state finals, the Castle Knights and the South Bend Washington Panthers competed at a record-setting level;
Whereas, Castle Knight Jasmine Ussery set a state record for rebounds in a championship game with sixteen. The Knights and Panthers combined to set a record in the first quarter with most total points scored in a quarter with forty-one, a record that they eclipsed in the third quarter, scoring a combined forty-three points;
Whereas, In addition, the championship game performance set several Class 4A records, including most points scored by Castle (83), most free throws made by Castle (31), most combined points in a game (155), and most combined points in a half (79). At the end of the night, a total of eighteen team and individual records were broken and five others were tied;
Whereas, The unranked Castle Knights upset the top-ranked South Bend Washington Panthers 83-72 to capture the school's first Girls State Basketball Title. The Knights, led by coach Wayne Allen, finished the season on a 15-game winning streak to earn a 23-3 season record. Four of the Knights finished the game with double-figure scores; and
Whereas, In addition to winning the 4A State Title, the Castle Knights celebrated an honor for one of its players. Senior forward Lynn McKinney was named the 2005-2006 Girls Basketball Class 4A recipient of the Patricia L. Roy Mental Attitude Award. Indiana Farm Bureau Insurance, the IHSAA corporate partner, presented a $1,000 scholarship to Castle High School in the name of Lynn McKinney for this honor: 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 the Castle High School girls basketball team on winning the 2006 Class 4A State Championship.
SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this resolution to Castle Principal, Philip DeLong; Coach, Wayne Allen; and to each member of the State Champion Knights basketball team.

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.

The House recessed until the fall of the gavel.

**RECESS**

The House reconvened at 4:55 p.m. with the Speaker in the Chair.

**MESSAGE FROM THE SENATE**
Mr. Speaker: I am directed by the Senate to inform the House that the President Pro Tempore of the Senate has appointed the following Senators a conference committee to confer on Engrossed House Bill 1420:
Conferees: Gard and Breaux

MARY C. MENDEL
Principal Secretary of the Senate

**MESSAGE FROM THE SENATE**
Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report 1 on Engrossed House Bill 1117.

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 Bill 106.

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 21 correction on
Engrossed Senate Bill 235.

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 47, 71, and 73 and the same are herewith transmitted 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 Resolutions 39 and 60 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
ESB 77–1; filed March 13, 2006, at 10:57 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 77 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 1, delete lines 1 through 10.
Page 2, delete lines 3 through 21.
Renumber all SECTIONS consecutively.

(Reference is to ESB 77 as reprinted February 22, 2006.)

HEINOLD HEIM
BRODEN STILWELL
Senate Conferees House Conferees

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

CONFERENCE COMMITTEE REPORT
ESB 1353–1; filed March 13, 2006, at 11:12 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 1353 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 24–2–1–0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 0.5. This chapter is intended to provide a system of state trademark registration and protection that is consistent with the federal system of trademark registration and protection under the Trademark Act of 1946. A judicial or an administrative interpretation of a provision of the federal Trademark Act may be considered as persuasive authority in construing a provision of this chapter.

SECTION 2. IC 24–2–1–2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. As used in this chapter: The following definitions apply throughout this chapter:

(1) "Abandoned" means either of the following:
(A) The person who owns the mark has discontinued use of the mark and does not intend to resume use of the mark. A person’s intent not to resume use of the mark may be inferred from the circumstances. Three (3) consecutive years without use of a mark constitutes prima facie evidence that the use of the mark has been abandoned.
(B) The conduct of the owner, including an act or omission, has caused the mark to lose its significance as a mark.
(2) "Applicant" means a person who files an application for registration of a mark under this chapter and the legal representatives, successors, or assigns of the person.
(3) "Dilution" means the lessening of the capacity of a famous mark to identify and distinguish goods or services, regardless of the presence or absence of:
(A) competition between the owner of the famous mark and other parties; or
(B) the likelihood of confusion, mistake, or deception.
(4) "Mark" means a trademark or service mark that is entitled to registration under this chapter, whether the mark is registered or not.
(5) "Person" means:
(A) a human being;
(B) a corporation;
(C) a partnership;
(D) a limited liability company; or
(E) any other entity or organization:
(i) capable of suing and being sued in a court of law;
(ii) entitled to a benefit or privilege under this chapter; or
(iii) rendered liable under this chapter.
(6) "Registrant" means a person to whom the registration of a mark under this chapter is issued and the legal representatives, successors, or assigns of the person.
(7) "Secretary" means the secretary of state or the designee to the attorney general.
(d) If a matter has been referred to the attorney general under subsection (c), the attorney general may:
(1) file an information in a court with jurisdiction over the matter in the county in which the offense is alleged to have been committed; and
(2) prosecute the alleged offense.

(Reference is to ESB 168 as printed February 17, 2006.)

MILLER THOMAS
SIPES C. BROWN
Senate Conferees House Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1353–1; filed March 13, 2006, at 11:12 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 1353 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 24–2–1–0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 0.5. This chapter is intended to provide a system of state trademark registration and protection that is consistent with the federal system of trademark registration and protection under the Trademark Act of 1946. A judicial or an administrative interpretation of a provision of the federal Trademark Act may be considered as persuasive authority in construing a provision of this chapter.

SECTION 2. IC 24–2–1–2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. As used in this chapter: The following definitions apply throughout this chapter:

(1) "Abandoned" means either of the following:
(A) The person who owns the mark has discontinued use of the mark and does not intend to resume use of the mark. A person’s intent not to resume use of the mark may be inferred from the circumstances. Three (3) consecutive years without use of a mark constitutes prima facie evidence that the use of the mark has been abandoned.
(B) The conduct of the owner, including an act or omission, has caused the mark to lose its significance as a mark.
(2) "Applicant" means a person who files an application for registration of a mark under this chapter and the legal representatives, successors, or assigns of the person.
(3) "Dilution" means the lessening of the capacity of a famous mark to identify and distinguish goods or services, regardless of the presence or absence of:
(A) competition between the owner of the famous mark and other parties; or
(B) the likelihood of confusion, mistake, or deception.
(4) "Mark" means a trademark or service mark that is entitled to registration under this chapter, whether the mark is registered or not.
(5) "Person" means:
(A) a human being;
(B) a corporation;
(C) a partnership;
(D) a limited liability company; or
(E) any other entity or organization:
(i) capable of suing and being sued in a court of law;
(ii) entitled to a benefit or privilege under this chapter; or
(iii) rendered liable under this chapter.
(6) "Registrant" means a person to whom the registration of a mark under this chapter is issued and the legal representatives, successors, or assigns of the person.
(7) "Secretary" means the secretary of state or the designee to the attorney general.
(d) If a matter has been referred to the attorney general under subsection (c), the attorney general may:
(1) file an information in a court with jurisdiction over the matter in the county in which the offense is alleged to have been committed; and
(2) prosecute the alleged offense.

(Reference is to ESB 168 as printed February 17, 2006.)

MILLER THOMAS
SIPES C. BROWN
Senate Conferees House Conferees

The conference committee report was filed and read a first time.
of the secretary charged with the administration of this chapter.

(8) "Service mark" means a word, name, symbol, device, or combination of a word, name, symbol, or device that is used by a person to:

(A) identify a service, including a unique service, of a person and distinguish the person's service from the service of another person; and

(B) indicate the source of a service, even if the source is unknown.

Titles and character names and other distinctive features of radio or television programs used by a person may be registered as a service mark even though the radio or television programs may advertise the goods of the sponsor.

(9) The term "Trademark" means any word, name, symbol, device, or combination thereof adopted and used as a mark by a person to:

(A) identify goods or services made, sold; or rendered by him and to distinguish them from goods or services made, sold; or rendered by others; and distinguish goods, including a unique product, of a person and distinguish the person's goods from goods manufactured or sold by another person; and

(B) indicate the source of the goods, even if the source is unknown.

The term "person" means any individual, firm, partnership, corporation; limited liability company; association; union of workingmen; or other organization.

The term "applicant" embraces the person filing an application for registration of a trademark under this chapter; his legal representatives; successors; or assigns.

The term "registrant" embraces the person to whom the registration of a trademark under this chapter is issued; his legal representatives; successors; or assigns.

For the purposes of this chapter, a trademark shall be deemed to be "used in this state" when it is placed in any manner on the goods or their containers or on the tags or labels affixed thereto; or when it is used to identify the services of one person and distinguish them from the services of others; and such goods or services are sold; otherwise distributed; or rendered in this state.

"Trade name" means a name used by a person to identify a business or vocation of the person.

"Use" means the bona fide use of a mark in the ordinary course of trade and not a use made merely to reserve a right in a mark. A mark is considered to be in use:

(A) on or in connection with a good if the:

(i) mark is placed in any manner on the good, a container for the good, a display associated with the good, or a tag or label affixed to the good; or

(ii) nature of the good makes placement of the mark as described in item (i) impracticable and the mark is placed on a document associated with the good or with the sale of the good; and

(B) if the good described in clause (A) is sold or transported in Indiana.

A mark is considered to be in use on or in connection with a service if the mark is used or displayed in the sale or advertising of the service and the service is rendered in Indiana.

SECTION 3. IC 24-2-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. A trademark mark by which the goods or services of any an applicant for registration may be distinguished from the other goods or services of others shall not be registered if the mark:

(1) consists of or comprises immoral, deceptive, or scandalous matter;

(2) consists of or comprises matter which may:

(A) disparage or falsely suggest a connection with:

(i) persons living or dead;

(ii) institutions;

(iii) beliefs; or

(iv) national symbols; or

(B) bring them into contempt or disrepute;

(i) persons living or dead;

(ii) institutions;

(iii) beliefs; or

(iv) national symbols;

(3) consists of or comprises the flag, or coat of arms, or other insignia of:

(A) the United States;

(B) any state; or

(C) or of the United Nations; or

(D) any foreign nation; or any simulation thereof;

(4) consists of or comprises the name, signature, or portrait of any identifying a particular living individual, except with his or her permission unless the individual provides written consent; or

(5) is a mark which:

(A) if used on or in connection with the goods or services of the applicant, is merely descriptive or deceptively misdescriptive of them goods or services;

(B) if used on or in connection with the goods or services of the applicant, is primarily geographically descriptive or deceptively geographically misdescriptive of them goods or services; or

(C) is primarily merely a surname.

Provided: however, that nothing in this subdivision shall prevent the registration of a mark that is used in this state by the applicant which has become distinctive of the applicant's goods or services. The secretary of state may accept proof of continuous use of a mark by the applicant in Indiana for the five (5) years immediately preceding the date on which the claim of distinctiveness is made as evidence that the mark has become distinctive, as applied to used on or in connection with the applicant's goods or services; proof of substantially exclusive and continuous use thereof as a mark by the applicant in this state or elsewhere for the five (5) years next preceding the date of the filing of the application for registration; or

(6) consists of or comprises (B) is a trademark mark which that so resembles a trademark mark registered in this state or deemed registered in this state, as provided for by section 10 of this chapter, a mark or trade name previously used by another person in Indiana and not abandoned, as to be likely, when applied to if used on or in connection with the goods or services of the applicant, to cause deception, confusion, or mistake, or to deceive, unless there shall be filed with the secretary of state the written consent of the registrant of such trademark; signed and verified under oath by the registrant or one (1) of its officers or partners.

SECTION 4. IC 24-2-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) Subject to the limitations set forth in of this chapter, any a person who adopts and uses a trademark in this state in Indiana may file in the office of the secretary, or state, on a form to be furnished by the secretary of state, in a manner that complies with the requirements of the secretary, an application for registration of that trademark setting forth, among other things:

(1) The name and business address of the person applying for such registration of the mark, and:

(A) if the applicant is a corporation, the state of incorporation;

(B) if the applicant is a partnership, the:

(i) state in which the partnership is organized; and

(ii) names of the general partners, as specified by the secretary; or

(C) if the applicant is another form of legal entity, the jurisdiction in which the legal entity was organized.

(2) The:

(A) goods or services on or in connection with which the mark is used; in connection with which the mark is used; and the

(B) mode or manner in which the mark is used or in connection with such the goods or services; and the

(C) class in which such the goods or services fall.
The application shall which registration is sought. A disclaimer does not prejudice or affect the applicant's rights:

(1) existing at the time of application or arising after the application in the disclaimed matter; or
(2) on another application if the disclaimed matter is or becomes distinctive of the applicant's goods or services.

(f) If an applicant is not entitled to registration of a mark under this chapter, the secretary shall advise the applicant of the reason the applicant is not entitled to registration of the mark. The applicant has a reasonable time specified by the secretary:

(1) to reply to the reason the applicant is not entitled to registration; or
(2) to amend the application.

If the applicant replies to the secretary or amends the application within the reasonable time, the secretary shall reexamine the application.

(g) The procedure under subsection (f) may be repeated until:

(1) the secretary finally refuses registration of the mark; or
(2) the applicant fails to reply or amend the application within the time specified by the secretary, at which time the secretary shall consider the application to have been withdrawn.

(h) If the secretary issues a final order refusing the registration of a mark, an applicant may bring a civil action in a court with jurisdiction to compel the registration of the mark. A court may order the secretary to register a mark, without costs to the secretary, on proof that all statements in the application are true and the mark is entitled to registration.

(i) If two (2) or more applications are concurrently processed by the secretary for registration of the same or confusingly similar marks for the same or related goods or services, the secretary shall grant priority to the applications in order of filing. If a previously filed application is granted a registration, the other application or applications must be rejected. A rejected application under this chapter shall be attributable to the use of a previously registered mark based upon prior or superior rights to the mark under section 10 of this chapter.

SECTION 5. IC 24-2-1-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) Upon compliance by the If an applicant complies with the requirements of this chapter, the secretary of state shall cause issue and deliver a certificate of registration to be issued and delivered to the applicant. The certificate of registration shall be issued in the name of the secretary of state and the seal of the state of Indiana, and it shall show The certificate of registration shall include all of the following:

(1) The name and business address and the extent of the person claiming ownership of the mark. If the person claiming ownership of the mark is:

(A) a corporation, the certificate of registration must show the state of incorporation; or
(B) a partnership, the certificate of registration must show the state in which the partnership is organized and the names of the general partners, as specified by the secretary; or
(C) another form of legal entity, the certificate of registration must show the state in which legal entity is organized.

(2) The date claimed for the first use of the trademark in the United States and this state and the date claimed for the first use of the mark in Indiana.

(3) The class of goods or services and a description of the goods or services on or in connection with which the trademark is used.

(4) A reproduction of the mark.

(5) The registration date and term of the registration. One (1) specimen or facsimile of the trademark shall be attached to and made a part of the certificate of registration.

(b) Any A certificate of registration issued by the secretary under the provisions of subsection (a) or a copy thereof duly of a certificate of registration certified by the secretary shall be admissible in evidence as competent and sufficient proof of the
registration of such trademark the mark in any an action or judicial proceeding proceeding in any a court of this state-Indiana.

SECTION 7. IC 24-2-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) Registration of a trademark hereunder shall be mark under this chapter is effective for a term of ten (10) five (5) years from the date of registration. and upon

(b) If a person who registers a mark under subsection (a) files an application filed within not more than six (6) months prior to before the expiration of such the five (5) year term on a form to be furnished by the secretary of state. in a manner complying with the requirements of the secretary, the registration may be renewed for a like term an additional five (5) year term commencing at the end of the expiring five (5) year term.

(c) A renewal fee of ten dollars ($10.00); payable to the secretary of state; shall accompany the application for renewal of the registration.

(d) A trademark registration may be renewed for successive periods of ten (10) five (5) years in the manner described in subsection (b).

(e) The secretary of state shall notify the registrants of trademarks marks of the necessity of renewal within the year next preceding the expiration of the ten (10) five (5) years from the date of the registration by writing to the last known address of the registrants.

(f) An application for renewal under this chapter for a mark registered under this chapter or a mark registered under a prior law, must include:

(1) a verified statement that the mark has been and remains in use; and

(2) a specimen showing actual use of the mark on or in connection with the good or service.

SECTION 8. IC 24-2-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. Any A registration in force on March 8, 1955; shall expire March 8, 1956; unless July 1, 2006, continues in full force and effect for the unexpired term of the registration and may be renewed by:

(1) filing an application for renewal with the secretary; on a form furnished by him and

(2) paying the renewal fee; described in the manner described in section 6 of this chapter within not more than six (6) months prior to the expiration of the registration.

SECTION 9. IC 24-2-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. Any trademark (a) A mark and the registration of a mark under this chapter shall be are assignable with the:

(1) good will of the business in which the trademark mark is used; or with that

(2) part of the good will of the business:

(A) connected with the use of the mark; and

(B) symbolized by the trademark. Assignment shall mark.

(b) An assignment:

(1) must be made by an instrument writing duly executed; and

(2) shall may be recorded with the secretary of state upon the payment of a recording fee of ten dollars ($10.00) payable to the secretary. of state who, upon recording of the assignment.

(c) The secretary, after recording an assignment, shall issue in the name of the assignee a new certificate of registration for the remainder of the term of the:

(1) registration; or of the last

(2) most recent renewal thereof, of the registration.

(d) An assignment of any a registration under this chapter shall be is void as against any a subsequent purchaser for valuable consideration without notice unless it the assignment is recorded with the secretary of state; not more than three (3) months:

(1) after the date of the assignment; or

(2) before the subsequent purchase.

SECTION 10. IC 24-2-1-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8.5. (a) A registrant or an applicant who changes the name of the person to whom the mark is issued or for whom an application is filed may record a certificate of change of name of the registrant or applicant with the secretary upon the payment of a recording fee.

(b) The secretary may issue a new certificate of registration or an assigned application in the name of the assignee. The secretary may issue a new certificate of registration in the name of the assignee for the remainder of the term of the:

(1) certificate of registration; or

(2) most recent renewal of the certificate of registration.

SECTION 11. IC 24-2-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. The secretary of state shall keep for public examination a record of all trademarks marks registered or renewed under this chapter as well as a record of all instruments recorded under sections 8 and 8.5 of this chapter.

SECTION 12. IC 24-2-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. The secretary of state shall cancel from the register in whole or in part:

(1) after March 8, 1956; all registrations under prior statutes which have not been renewed in accordance with this chapter;

(2) any (1) a registration concerning for which the secretary of state shall receive receives a voluntary request for cancellation thereof from the registrant or the assignee of record;

(3) (2) all registrations granted under this chapter and not renewed in accordance with the provisions under section 6 of this chapter;

(4) any (3) a registration concerning for which a court of competent jurisdiction shall findings that:

(A) that the registered trademark mark has been abandoned;

(B) that the registrant is not the owner of the trademark mark;

(C) that the registration was granted improperly; or

(D) that the registration was obtained fraudulently; and

(E) the registered mark is or has become the generic name for the good or the service, or a part of the good or the service, for which the mark was registered;

(F) the registered mark is so similar to a mark registered by another person on the principal register in the United States Patent and Trademark Office as to be likely to cause deception, confusion, or mistake between the marks, and the mark registered in the United States Patent and Trademark Office was filed before the filing of the application for registration by the registrant under this chapter. However, a mark may not be canceled under this clause if the registrant proves that the registrant is the owner of a concurrent registration of a mark in the United States Patent and Trademark Office covering an area including Indiana; or

(5) when (4) a registration if a court of competent jurisdiction shall order orders cancellation of the registration on any ground.

SECTION 13. IC 24-2-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) The following general classes secretary shall adopt rules under IC 4-22-2 to establish:

(1) a classification of goods and services are established for convenience of administration of this chapter but not to limit or extend the an applicant's or registrant's rights; and

(2) a single application for registration of a trademark mark that:

(A) may include any or all goods or services each good upon or in connection with which a mark is used;

(B) may include each service with which the trademark mark is actually being used, comprised in a single class; but in no event shall a single application include goods or services upon or in connection with which the trademark is being used which fall within different and

(C) must indicate the appropriate class or classes of the goods or services.

To the extent practical, the classification of goods or services should conform to the classification of goods or services adopted by the United States Patent and Trademark Office.

(b) The said classes are as follows:
(11) Raw or partly prepared materials;
(12) Receipts;
(13) Baggage; animal equipments; portfolio; and pocketbooks;
(14) Abrasives and polishing materials;
(15) Adhesives;
(16) Chemicals and chemical compositions;
(17) Cordage;
(18) Smokers’ articles; not including tobacco products;
(19) Explosives; firearms; equipments; and projectiles;
(20) Fertilizers;
(21) Inks and inking materials;
(22) Construction materials;
(23) Hardware and plumbing and steam-fitting supplies;
(24) Metals and metal castings and forgings;
(25) Oils and greases;
(26) Paints and painters’ materials;
(27) Tobacco products;
(28) Medicines and pharmaceutical preparations;
(29) Vehicles;
(30) Linoleum and oiled cloth;
(31) Electrical apparatus; machines; and supplies;
(32) Games; toys; and sporting goods;
(33) Cutlery; machinery; and tools; and parts thereof;
(34) Laundry apparatus and machines;
(35) Locks and safes;
(36) Measuring and scientific apparatus;
(37) Horological instruments;
(38) Jewelry and precious-metal ware;
(39) Brooms; brushes; and dusters;
(40) Crockery; earthenware; and porcelain;
(41) Fitters and refrigerators;
(42) Furniture and upholstery;
(43) Glassware;
(44) Heating; lighting; and ventilating apparatus;
(45) Belting; hose; machinery packing; and nonmetallic tires;
(46) Musical instruments and supplies;
(47) Paper and stationery;
(48) Prints and publications;
(49) Clothing;
(50) Fancy goods; furnishings; and notions;
(51) Cures; parasols; and umbrellas;
(52) Knitted; netted and textile fabrics; and substitutes thereof;
(53) Thread and yarn;
(54) Dental; medical; and surgical appliances;
(55) Soft drinks and carbonated waters;
(56) Foods and ingredients of foods;
(57) Wines;
(58) Malt beverages and liquors;
(59) Distilled alcoholic liquors;
(60) Cosmetics and toilet preparations;
(61) Detergents and soaps;
(62) Merchandise not otherwise classified;
(63) Miscellaneous;
(64) Advertising and business;
(65) Insurance and financial;
(66) Construction and repair;
(67) Communication;
(68) Transportation and storage;
(69) Material treatment;
(70) Education and entertainment;

(b) If a single application includes goods or services that fall within multiple classes, the secretary may require payment of a fee for each class.

SECTION 14. IC 24-2-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. Any (a) A person who shall for himself or herself, or on behalf of any other person, procure the filing or registration of any trademark mark in the office of the secretary of state under the provisions hereof; this chapter by knowingly making any a false or fraudulent representation or declaration orally, in writing, or by any other fraudulent means, shall be liable to pay for all damages sustained in consequence of such the filing or registration. to be

(b) The damages may be recovered by or on behalf of the injured party injured thereby in any a court of competent jurisdiction.

SECTION 15. IC 24-2-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. Subject to the provisions of section 15 of this chapter, any a person who: shall:

(1) use (1) uses, without the consent of the registrant, any a reproduction, counterfeit, copy, or colorable imitation of a trademark mark registered under this chapter:
(A) in connection with the sale, offering for sale, distribution, or advertising of any or all of the remedies provided in section 14 of this chapter, except that under subdivision (b) the registration is not be entitled to recover profits or damages unless the acts have been committed with knowledge that such trademark is intended to be used the intent to cause deception, confusion, or mistake, or to deceive.

(b) reproduce, counterfeit, copy: (2) reproduces, counterfeits, or copies a mark or colorably imitates any such trademark imitates a mark and applies such applies the reproduction, counterfeit, copy, or colorable imitation to labels, signs, prints, packages, wrappers, receptacles, or advertisements intended to be used upon or used:
(A) in conjunction connection with the sale or other distribution of the goods or services in this state of such goods or services shall be Indiana; or
(B) on the goods or services;

is liable in a civil action brought by the owner of such registered trademark registrant for any or all of the remedies provided in section 14 of this chapter, except that under subdivision (b) the registrant is not be entitled to recover profits or damages unless the acts have been committed with knowledge that such trademark is intended to be used the intent to cause deception, confusion, or mistake, or to deceive.

SECTION 16. IC 24-2-1-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13.5. (a) This section applies only to fanciful marks, except in cases where the other person’s use tarnishes the reputation of the famous mark.
(b) An owner of a mark that is famous in Indiana is entitled, subject to the principles of equity and terms a court considers reasonable, to an injunction against another person’s commercial use of the mark or trade name if the other person’s use begins after the mark has become famous and the other person’s use causes dilution of the distinctive quality of the mark, and to other relief provided in this section. In determining whether a mark is distinctive and famous, a court may consider factors such as:
(1) the degree of inherent or acquired distinctiveness of the mark in Indiana;
(2) the duration and extent of use of the mark in connection with the goods or services with which the mark is used;
(3) the duration and extent of advertising and publicity of the mark in Indiana;
(4) the geographical extent of the trading area in which the mark is used;
(5) the channels of trade for the goods or services with which the mark is used;
(6) the degree of recognition of the mark in the trading areas and channels of trade in Indiana as it relates to the use of the mark by the:
(A) mark’s owner; and
(B) person against whom the injunction is sought;

(7) the nature and extent of use of the same or a similar mark by a third party; and
(8) whether the mark is the subject of a:
(A) registration in Indiana;
(B) federal registration under the Act of March 3, 1881;
(C) federal registration under the Act of February 20, 1905; or
(D) registration on the principal register.
(c) In an action brought under this section, the owner of a famous mark is entitled only to injunctive relief unless the person against whom the injunctive relief is sought willfully intended to trade on the owner’s reputation or to cause dilution of the famous mark. If willful intent is proven, the owner of the famous mark is entitled to the other remedies set forth in this section, subject to the discretion of the court and the principles of equity.
(d) A court may require a defendant to pay to the owner of a mark all profits derived from and damages suffered by reason of the use of the mark in violation of this section and, in exceptional cases, may award reasonable attorney’s fees to the prevailing party.

(e) The following are not actionable under this section:
(1) Fair use of a famous mark by another person in comparative commercial advertising or promotion to identify the competing goods or services of the owner of the famous mark.
(2) Noncommercial use of the mark.
(3) All forms of news reporting and news commentary.

SECTION 17. IC 24-2-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) Any owner of a trademark mark registered under this chapter may proceed to bring an action to enjoin the use of any mark in violation of section 13 of this chapter and the manufacture, use, display, or sale of any counterfeit or imitation thereof; goods or services identified by the mark and any court of competent jurisdiction may grant injunctive or an injunction to restrain such the use of the mark and the manufacture, use, display, or sale of the goods or services as may be by the court deemed just and reasonable. and
(b) A court may:
(1) require the a defendant to pay to such the owner of a mark all:
(A) profits derived from; and/or all and
(B) damages suffered by reason of;
such the wrongful manufacture, use, display, or sale of the goods or services; and such court may also
(2) order that any such counterfeit or imitation in the possession or under the control of any a defendant in such the case be delivered to an officer of the court or to the complainant to be destroyed.
(c) In addition to amounts a court may award under subsection
(b), a court may enter judgment for:
(1) an amount not to exceed the greater of:
(A) three (3) times the profits derived from; or
(B) three (3) times the damages suffered by reason of;
the intentional use of a counterfeit mark, knowing it to be a counterfeit in connection with the goods or services for which the mark is registered; and
(2) in exceptional cases, reasonable attorney’s fees to the prevailing party.

(2) (d) The enumeration invocation of any a right or remedy in this chapter shall does not affect a registrant’s right to prosecute prosecution under any a penal law of this state.

SECTION 18. IC 24-2-1-14.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14.5. (a) An action for cancellation of a mark registered under this chapter or an action to compel registration of a mark under this chapter must be brought in a court with jurisdiction in Indiana.
(b) In an action for cancellation of a mark, the secretary:
(1) may not be made a party to an action;
(2) must be notified of the filing of a complaint in an action by the clerk of the court in which the complaint is filed; and
(3) is entitled to intervene in an action for cancellation of a mark.
(c) In an action brought against a nonresident registrant, service may be effected upon the secretary as agent for service of the registrant in accordance with the procedures established for service upon nonresident corporations and business entities.

SECTION 19. IC 24-2-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. Nothing herein shall This chapter does not adversely affect the rights or the enforcement of rights in trademarks a mark acquired in good faith at any time at common law.

SECTION 20. IC 24-2-1-15.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15.3. (a) The secretary shall adopt rules under IC 4-22-2 to establish:
(1) an application fee;
(2) a renewal fee;
(3) a recording fee; and
(4) fees for related services.
(b) A fee is nonrefundable unless otherwise specified in the rules adopted by the secretary under subsection (a).

SECTION 21. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 24-2-1-1; IC 24-2-1-16.

SECTION 22. [EFFECTIVE JULY 1, 2006] This act does not affect a legal proceeding or appeal initiated under IC 24-2-1 before July 1, 2006.

(Reference is to EHB 1353 as printed February 10, 2006.)

WALORSKI     BRAY
CROOKS        BRODEN
House Conferees Senate Conferees

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

CONFERENCE COMMITTEE REPORT
ESB 202–1; filed March 13, 2006, at 11:43 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 202 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 12, delete lines 29 through 42.
Page 13, delete lines 1 through 6.
Page 17, line 23, delete "subsection (b)(1)" and insert "subdivision (1)".

Renumber all SECTIONS consecutively.

(Reference is to ESB 202 as reprinted March 1, 2006.)

RIEGSECKER  T. BROWN
SIPES        C. BROWN
Senate Conferees House Conferees

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

CONFERENCE COMMITTEE REPORT
ESB 112–1; filed March 13, 2006, at 12:39 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 112 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 21, delete lines 16 through 27.

Renumber all SECTIONS consecutively.

(Reference is to ESB 112 as reprinted February 24, 2006.)

RIEGSECKER  WOODRUFF
ROGERS        C. BROWN
Senate Conferees House Conferees

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

CONFERENCE COMMITTEE REPORT
ESB 321–1; filed March 13, 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 321 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 22-4-2-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 17. Except as provided in IC 22-4-1-15, "computation date" means June 30 of the year preceding the effective date of new rates of contribution, except that in the event, after having been legally terminated, an employer again becomes subject to this article during the last six (6) months of a calendar year and resumes his the employer’s former position with
SECTION 2. IC 22-4-2-23 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 23. "Initial claim"
means a written application, in a form prescribed by the board;
department, made by an individual for the determination of his or
her entitlement to unemployment compensation benefits.

SECTION 3. IC 22-4-2-24 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 24. "Additional
claim" means a written application for a determination of benefit
eligibility, made by an individual in a form prescribed by the board;
department, to begin a second or subsequent series of claims in a
benefit period, by which application the individual certifies to new
unemployment resulting from a break in or loss of work which has
occurred since the last claim was filed by such individual.

SECTION 4. IC 22-4-2-39 IS ADDED TO THE INDIANA CODE
AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2006]: Sec. 39. As used in this article, "liability
administrative law judge" means a person who is:
(1) employed as an administrative law judge under
IC 22-4-17-4; and
(2) authorized to hear matters described in IC 22-4-32-1.

SECTION 5. IC 22-4-7-2 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. "Employer" also
means the following:
(a) Any employing unit whether or not an employing unit at the
time of the acquisition which acquires the organization, trade, or
business within this state of another which at the time of such
acquisition is an employer subject to this article, and any employing
unit whether or not an employing unit at the time of the acquisition
which acquires substantially all assets within this state of such an
employer used in or in connection with the operation of such trade or
business, if the acquisition of substantially all such assets of such
trade or business results in or is used in the operation or continuance
of an organization, trade, or business, if the acquisition of
substantially all the assets within this state of such an employer
used in or in connection with the operation of such trade or
business results in or is used in the operation or continuance of
such trade or business for which such employing unit combined with
the employing unit acquired had constituted its entire organization,
trade, or business.
(b) Any employing unit (whether or not an employing unit at the
time of acquisition) which acquires a distinct and separable portion
of the organization, trade, or business within this state of another
employing unit which at the time of such acquisition is an employer
subject to this article only if the employment experience of the
disposing employing unit combined with the employment of its
predecessor or predecessors would have qualified such employing
unit under IC 22-4-7-1 section 1 of this chapter if the portion
acquired had constituted its entire organization, trade, or business and
the acquisition results in the operation or continuance of an
organization, trade, or business.
(c) Any employing unit which, having become an employer under
IC 22-4-7-1, 22-4-7-2(a), 22-4-7-2(b), 22-4-7-2(d), 22-4-7-2(f), or
22-4-7-2(h), section 1, 2(a), 2(b), 2(d), 2(f), or 2(h) of this chapter,
has not ceased to be an employer by compliance with the provisions
of IC 22-4-9-2 and IC 22-4-9-3.
(d) For the effective period of its election pursuant to IC 22-4-9-4
or IC 22-4-9-5, any other employing unit which has elected to
become fully subject to this article.
(e) Any employing unit for which service in employment as
defined in IC 22-4-8-2(l) is performed. In determining whether an
employing unit for which service other than agricultural labor is also
performed is an employer under sections 1 or 2 of this chapter, the
wages earned or the employment of an employee performing service
in agricultural labor after December 31, 1977 may not be taken into
account. If an employing unit is determined an employer of
agricultural labor, the employing unit shall be determined an
employer for the purposes of section 1 of this chapter.
(f) Any employing unit not an employer by reason of any other
paragraph of IC 22-4-7-2(c) through 2(e) section 2(a) through 2(e)
of this chapter inclusive, for which within either the
current or preceding calendar year services in employment are or
were performed with respect to which such employing unit is liable
for any federal tax against which credit may be taken for contributions
required to be paid into a state unemployment compensation

insurance fund; or which, as a condition for approval of this article
for full tax credit against the tax imposed by the Federal
Unemployment Tax Act, is required, pursuant to such Act, to be an
"employer" under this article; however, an employing unit subject to
contribution solely because of the terms of the subsection that may file
a written application to cover and insure his or her employing unit's
employees under the unemployment compensation insurance law of
another jurisdiction. Upon approval of such application by the board;
department, the employing unit shall not be deemed to be an
employer and such service shall not be deemed employment under
this article.

(g) Any employing unit for which service in employment, as
defined in IC 22-4-8-2(j) is performed after December 31, 1977 and
subsequent to December 31, 1977; any employing unit for which
service in employment is performed; as defined in or IC 22-4-8-2(j)(1), is performed.
(h) Any employing unit for which service in employment, as
defined in IC 22-4-8-2(j), is performed. after December 31, 1977.

(i) Any employing unit for which service in employment as defined
in IC 22-4-8-2(m) is performed. In determining whether an employing
unit for which service other than domestic service is also performed
is an employer under sections 1 or 2 of this chapter, the wages earned
or the employment of an employee performing domestic service after
December 31, 1977 may not be taken into account.

SECTION 6. IC 22-4-8-1 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) "Employment," subject to the other provisions of this section, means service,
including service in interstate commerce performed for remuneration
or under any contract of hire, written or oral, expressed or implied.
(b) (b) Services performed by an individual for remuneration shall
be deemed to be employment subject to this article irrespective of
whether the common-law relationship of master and servant exists,
unless and until it is all the following conditions are shown to the
satisfaction of the board that (A) such employment:
(1) The individual has been and will continue to be free from
control and direction in connection with the performance of
such service, both under his or her individual's contract of service and
(2) The service is performed outside the usual course of
the business for which the service is performed. and
(3) The individual:
(A) is customarily engaged in an independently established
trade, occupation, profession, or business of the same nature as
that involved in the service performed; or
(B) is a sales agent who receives remuneration solely upon a
commission basis and who is the master of his
or her individual's own time and effort.
(4) Such (b) The term shall include also includes the following:
(1) Services performed for remuneration by an officer of a corporation in his or her official corporate capacity.
(2) Services performed for remuneration by any employing unit by an individual:
(A) as an agent-driver or commission-driver engaged in
distributing products, including but not limited to, meat,
vegetables, fruit, bakery, beverages, or laundry or
dry cleaning services for his or her individual's principal; or
(B) as a traveling or city salesman, other than as an
agent-driver or commission-driver, engaged upon a full-time
basis in the solicitation on behalf of, and the transmission to,
his or her individual's principal (except for sideline sales
activities on behalf of some other person) of orders from
wholesalers, retailers, contractors, or operators of hotels,
restaurants, or other similar establishments for merchandise
for resale or supplies for use in their business operations.

Provided, That (d) For purposes of subparagraph (h)(2) subsection
(c)(2), the term "employment" shall include services described in (A)
subsection (c)(2)(A) and (B) (c)(2)(B) only if all the following
conditions are met:
(i) (1) The contract of service contemplates that substantially all of the services to be performed personally by such individual.
in (2) The individual does not have a substantial investment in
facilities used in connection with the performance of the
services (other than in facilities for transportation). and

(ii) The services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.

SECTION 7. IC 22-4-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. "Employment" shall not include the following:

(1) Except as provided in section 2(i) of this chapter, service performed prior to January 1, 1978, in the employ of this state, any other state, any town or city, or political subdivision, or any instrumentality of any of them, other than service performed in the employ of a municipally owned public utility as defined in this article; or service performed in the employ of the United States of America, or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by this article, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation statute, all of the provisions of this article shall be applicable to such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services.

(2) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress; however, the board department is authorized to enter into agreements with the proper agencies under such Act of Congress which agreements shall become effective ten (10) days after publication thereof, in the manner provided in IC 22-4-3-19 for rules of the board; in accordance with rules adopted by the department under IC 4-32-2, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this article, acquired rights to unemployment compensation under such Act of Congress, or who have, after having acquired potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this article.

(3) "Agricultural labor" as provided in section 2(l)(1) of this chapter shall include only services performed:

(A) on a farm, in the employ of any person, in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur bearing animals and wildlife;

(B) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(C) in connection with the production or harvesting of any commodity defined as an agricultural commodity in Section 15(g) of the Agricultural Marketing Act (12 U.S.C. 1141j(g)) as amended, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(D) in the employ of:

(i) the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half (1/2) of the commodity with respect to which such service is performed; or

(ii) in the employ of (ii) a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in subdivision (A); item (i), but only if such operators produce more than one-half (1/2) of the commodity with respect to which such service is performed;

except the provisions of subdivisions (A) and (B) items (I) and (II) shall not be deemed to be applicable with respect to service performed on or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(E) on a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

(4) As used in this subsection, subdivision (3), "farm" includes stock, dairy, poultry, fruit, fur bearing animals, and truck farms, nurseries, orchards, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities.

(5) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, except as provided in section 2(m) of this chapter.

(6) Service performed on or in connection with a vessel or aircraft not an American vessel or American aircraft, if the employee is employed on and in connection with such vessel or aircraft when outside the United States.

(7) Service performed by an individual in the employ of child or spouse, and service performed by a child under the age of twenty-one (21) in the employ of a parent.

(8) Service not in the course of the employing unit's trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for such service is fifty dollars ($50) or more and such service is performed by an individual who is regularly employed by such employing unit to perform such service. For the purposes of this subsection, an individual shall be deemed to be regularly employed to perform service not in the course of an employing unit's trade or business during a calendar quarter only if:

(A) on each of some of twenty-four (24) days during such quarter such individual performs such service for some portion of the day; or

(B) such individual was regularly employed (as determined under clause (A)) by such employing unit in the performance of such service during the preceding calendar quarter.

(9) Service performed by an individual in any calendar quarter in the employ of any organization exempt from income tax under Section 501 of the Internal Revenue Code (except those services included in sections 2(i) and 2(j) of this chapter if the remuneration for such service is less than fifty dollars ($50)).

(10) Service performed in the employ of a hospital, if such service is performed by a patient of such hospital.

(11) Service performed in the employ of a school, college, or university if such service is performed:

(A) by a student who is enrolled and is regularly attending classes at such school, college, or university; or

(B) by the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that:

(i) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university; and

(ii) such employment will not be covered by any program of unemployment insurance.

(12) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a
full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subsection subdivision shall not apply to service performed in a program established for or on behalf of an employer or group of employers. (13) Service performed in the employ of a government foreign to the United States of America, including service as a consul or other officer or employee or a nondiplomatic representative. (14) Service performed in the employ of an instrumentality wholly owned by a government foreign to that of the United States of America, if the service is of a character similar to that performed in foreign countries by employees of the United States of America or of an instrumentality thereof, and if the board finds that the Secretary of State of the United States has certified to the Secretary of the Treasury of the United States that the government, foreign to the United States, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in such country by employees of the United States and of instrumentalities thereof. (15) Service performed as a student nurse in the employ of a hospital or nurses’ training school by an individual who is enrolled and is regularly attending classes in a nurses’ training school chartered or approved pursuant to state law, and service performed as an intern in the employ of a hospital by an individual who has completed a four (4) year course in a medical school chartered or approved pursuant to state law. (16) Service performed by an individual as an insurance producer or as an insurance solicitor, if all such service performed by such individual is performed for remuneration solely by way of commission. (17) Service performed by an individual: (A) under the age of eighteen (18) in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution, or (B) Services performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by the individual at a fixed price, the individual’s compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to the individual, whether or not the individual is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back. (18) Service performed in the employ of an international organization. (19) Except as provided in IC 22-4-7-1, services covered by an election duly approved by the agency charged with the administration of any other state or federal unemployment compensation law in accordance with an arrangement pursuant to IC 22-4-22-1 through IC 22-4-22-5, during the effective period of such election. (20) If the service performed during one-half (1/2) or more of any pay period by an individual for an employing unit constitutes employment, all the services of such individual for such period shall be deemed to be employment; but if the services performed during more than one-half (1/2) of any pay period by such an individual do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this subsection, "pay period" means a period of not more than thirty-one (31) consecutive days for which a payment of remuneration is ordinarily made to the individual by the employing unit. This subsection shall not be applicable with respect to services performed in a pay period by any such individual where any such service is excepted by subsection subdivision. (21) Service performed by an inmate of a custodial or penal institution. (22) Service performed as a precinct election officer (as defined in IC 3-5-2-40.1). SECTION 8. IC 22-4-9-3, AS AMENDED BY P.L.98-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) This section is subject to the provisions of IC 22-4-11.5. (b) Any employer subject to this article as successor to an employer pursuant to the provisions of IC 22-4-7-2(a) or IC 22-4-7-2(b) shall cease to be an employer at the end of the year in which the acquisition occurs only if the board finds that within such calendar year the employment experience of the predecessor prior to the date of disposition combined with the employment experience of the successor subsequent to the date of acquisition would not be sufficient to qualify the successor employer as an employer under the provisions of IC 22-4-7-1. No such successor employer may cease to be an employer subject to this article at the end of the first year of the current period of coverage of the predecessor employer. If all of the resources and liabilities of the experience account of an employer are assumed by another in accordance with the provisions of IC 22-4-10-6 or IC 22-4-10-7, such employer’s status as employer and under this article is hereby terminated unless and until such employer subsequently qualifies under the provisions of IC 22-4-7-1 or IC 22-4-7-2 and elects to become an employer under sections 4 or 5 of this chapter. (c) If no application for termination, as herein provided, is filed by an employer and four (4) full calendar years have elapsed since any contributions have become payable from such employer, then in such cases the board may terminate such employer’s experience account. SECTION 9. IC 22-4-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. Any employing unit not otherwise subject to this article which files with the board its written election to become an employer subject to this article for not less than two (2) calendar years shall, with the written approval of such election by the board, become an employer subject to this article to the same extent as all other employers as of the date stated in such approval. Provided, However, that the voluntary election of any such employer shall become inoperative if such employing unit becomes an employer by reason of IC 22-4-7-1. SECTION 10. IC 22-4-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Contributions shall accrue and become payable from each employer for each calendar year in which it is subject to this article with respect to wages paid during such calendar year. Except Where the status of an employer is changed by cessation or disposition of business or appointment of a receiver, trustees, trustee in bankruptcy, or other fiduciary, contributions shall immediately become due and payable on the basis of wages paid or payable by such employer as of the date of the change of status. Such contributions shall be paid to the department in such manner as the commissioner may prescribe, and shall not be deducted, in whole or in part, from the remuneration of individuals in an employer’s employ. When contributions are determined in accordance with Schedule A as provided in IC 22-4-11-3, the board may prescribe rules to require an estimated advance payment of contributions in whole or in part, if in the judgment of the board such advance payments will avoid a debit balance in the fund during the calendar quarter to which the advance payment applies. An adjustment shall be made following the quarter in which an advance payment has been made to reflect the difference between the estimated contribution and the contribution actually payable. Advance payment of contributions shall not be required for more than one (1) calendar quarter in any calendar year. (b) Any employer which is, or becomes, subject to this article by reason of IC 22-4-7-2(g) or IC 22-4-7-2(h) shall pay contributions as provided under this article unless it elects to become liable for "payments in lieu of contributions" (as defined in IC 22-4-3-2). (c) Except as provided in subsection, the election to become liable for "payments in lieu of contributions" must be filed with the department on a form prescribed by the commissioner.
FIRST EFFECTIVE JULY 1, 2006]: Sec. 4. (a) Except as provided in subsection (b) through (e) of this chapter, the commissioner shall maintain within the fund a separate experience account for each employer and shall credit to such account all contributions paid by such employer on its behalf except as otherwise provided in this article.

(b) The commissioner shall also maintain a separate account for each employer electing to make payments in lieu of contributions as provided in subsection (b) through (e) of this chapter and shall charge to such account all benefits chargeable to such employer and credit to such account all reimbursements made by such employer.

SECTION 13. IC 22-4-10.6, AS AMENDED BY P.L.98-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) When:

(1) an employing unit (whether or not an employing unit at the time of the acquisition) becomes an employer under IC 22-4-7-2(a);
(2) an employer acquires the organization, trade, or business, or substantially all the assets of another employer; or
(3) an employer transfers all or a portion of the employer's trade or business (including the employer's workforce) to another employer as described in IC 22-4-11.5-9,

the successor employer shall, in accordance with the rules prescribed by the commissioner, assume the position of the predecessor with respect to all the resources and liabilities of the predecessor's experience account.

(b) Except as provided by IC 22-4-11.5, when:

(1) an employing unit (whether or not an employing unit at the time of the acquisition) becomes an employer under IC 22-4-7-2(b); or
(2) an employer acquires a distinct and segregable portion of the organization, trade, or business within this state of another employer;

the successor employer shall assume the position of the predecessor employer with respect to the portion of the resources and liabilities of the predecessor's experience account as pertains to the distinct and segregable portion of the predecessor's organization, trade, or business acquired by the successor. An application for the acquiring employer to assume this portion of the resources and liabilities of the disposing employer's experience account must be filed with the department on prescribed forms not later than one hundred fifty (150) days immediately following the disposition date or not later than ten (10) days after the disposing and acquiring employers are mailed or otherwise delivered final notice that the acquiring employer is a successor employer, whichever is the earlier date. This portion of the resources and liabilities of the disposing employer's experience account shall be transferred in accordance with IC 22-4-11.5.

(3) Except as provided in IC 22-4-11.5, the successor employer, if an employer prior to the acquisition, shall pay at the rate of contribution originally assigned to it for the calendar year in which the acquisition occurs, until the end of that year. If not an employer prior to the acquisition, the successor employer shall pay the rate of two and seven-tenths percent (2.7%) unless the successor employer assumes all or part of the resources and liabilities of the predecessor employer's experience account, in which event the successor employer shall pay at the rate of contribution assigned to the predecessor employer for the period starting with the first day of the calendar quarter in which the acquisition occurs, until the end of that year. However, if a successor employer, not an employer prior to the acquisition, simultaneously acquires all or part of the experience balance of two (2) or more employers, the successor employer shall pay at the highest rate applicable to the experience accounts totally or partially acquired for the period starting with the first day of the calendar quarter in which the acquisition occurs, until the end of that year. If the successor employer had any employment prior to the date of acquisition, upon which contributions were owed under IC 22-4-9-1, the employer's rate of contribution from the first of the year to the first day of the calendar quarter in which the acquisition occurred would be two and seven-tenths percent (2.7%).

SECTION 14. IC 22-4-10.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) Subject to
subsection (d), skills 2016 assessments unpaid on the date on which they are due and payable bear interest at the rate of one percent (1%) per month or fraction of a month from and after that date until payment plus accrued interest is received by the department.

(b) Subject to subsection (d), a twenty-five dollar ($25) penalty shall be assessed on any skills 2016 assessments that are unpaid on the date subsequent to the date on which they are due and payable.

(c) All penalty and interest collected on delinquent skills 2016 assessments shall be deposited in the skills 2016 training fund established under IC 22-4-24-5. IC 5-28-27-3.

(d) The department may adopt fair and reasonable policies to waive the penalty and interest assessed under this section.

SECTION 15. IC 22-4-11-2, AS AMENDED BY P.L.98-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as provided in IC 22-4-11.5, the commissioner department shall for each year determine the contribution rate applicable to each employer.

(b) The balance shall include contributions with respect to the period ending on the computation date and actually paid on or before July 31 immediately following the computation date and benefits actually paid on or before the computation date and shall also include any voluntary payments made in accordance with IC 22-4-10-5:

(1) for each calendar year, an employer's rate shall be determined in accordance with the rate schedules in section 3 or 3.3 of this chapter; and
(2) for each calendar year, an employer's rate shall be two and seven-tenths percent (2.7%), except as otherwise provided in IC 22-4-37-3, unless and until:
(A) the employer has been subject to this article throughout the thirty-six (36) consecutive calendar months immediately preceding the computation date; and
(B) there has been some annual payroll in each of the three (3) twelve (12) month periods immediately preceding the computation date.

(c) In addition to the conditions and requirements set forth and provided in subsection (b)2(A) and (b)2(B), an employer's rate shall not be less than five and four-tenths-six-tenths percent (5.6%) unless all required contribution and wage reports have been filed within thirty-one (31) days following the computation date and all contributions, penalties, and interest due and owing by the employer or the employer's predecessors for periods prior to and including the computation date have been paid:

(1) within thirty-one (31) days following the computation date; or
(2) within ten (10) days after the commissioner department has given the employer a written notice by registered mail to the employer's last known address of:
(A) the delinquency; or
(B) failure to file the reports;
whichever is the later date.

The board or the board's designee may waive the imposition of rates under this subsection if the board finds the employer's failure to meet the deadlines was for excusable cause. The commissioner department shall give written notice to the employer before this additional condition or requirement shall apply.

(d) However, if the employer is the state or a political subdivision of the state or any instrumentality of a state or a political subdivision, or any instrumentality which is wholly owned by the state and one (1) or more other states or political subdivisions, the employer may contribute at a rate of one percent (1%) until it has been subject to this article throughout the thirty-six (36) consecutive calendar months immediately preceding the computation date.

(e) On the computation date every employer who had taxable wages in the previous calendar year shall have the employer's experience account charged with the amount determined under the following formula:

STEP ONE: Divide:
(A) the employer's taxable wages for the preceding calendar year; by
(B) the total taxable wages for the preceding calendar year.

STEP TWO: Multiply the quotient determined under STEP ONE by the total amount of benefits charged to the fund under section 1 of this chapter.

(f) One (1) percentage point of the rate imposed under subsection (c) or the amount of the employer's payment that is attributable to the increase in the contribution rate, whichever is less, shall be imposed as a penalty that is due and shall be deposited upon collection into the special employment and training services fund established under IC 22-4-25-1. The remainder of the contributions paid by an employer pursuant to the maximum rate shall be:

(1) considered a contribution for the purposes of this article; and
(2) deposited in the unemployment insurance benefit fund established under IC 22-4-26.

SECTION 16. IC 22-4-11.5-2, AS ADDDED BY P.L.98-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. As used in this chapter, "administrative law judge" means a person appointed employed by the commissioner under IC 22-4-17-4.

SECTION 17. IC 22-4-11.5-5, AS ADDDED BY P.L.98-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. As used in this chapter, "violates or attempts to violate" includes

(+++) the intent to evade a higher employer contribution rate in connection with a transfer of a trade or business through
(+) misrepresentation or
(±) willful nondisclosure of information relevant to the transfer.

SECTION 18. IC 22-4-11.5-7, AS ADDDED BY P.L.98-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) This section applies to a transfer of a trade or business that meets the following requirements:

(1) An employer transfers all or a portion of the employer's trade or business to another employer.
(2) At the time of the transfer, the two (2) employers have substantially common ownership, management, or control.

(b) The successor employer shall assume the experience rating account balance of the predecessor employer for the resources and liabilities of the predecessor employer's experience account that are attributable to the transfer.

(+) (d) The experience account balance and the payroll of the predecessor employer on the effective date of the transfer, and the benefits chargeable to the predecessor employer's original experience account after the effective date of the transfer, must be divided between the predecessor employer and the successor employer in accordance with rules adopted by the department under IC 4-22-2.

(++) (e) Any written determination made by the department is conclusive and binding on both the predecessor employer and the successor employer unless one (1) employer files or both employers file with the department a written protest with the department setting forth the grounds and all reasons for the protest. A protest under this section must be filed not later than ten (+) fifteen (15) days after the date the department sends the initial determination to the employing units employers. The protest shall be heard and determined under this section and IC 22-4-32-1 through IC 22-4-32-15. Both The predecessor employer, and the successor employer, and the department shall be parties to the hearing before the liability administrative law judge and are entitled to receive copies of all pleadings and the decision.

SECTION 19. IC 22-4-11.5-8, AS ADDDED BY P.L.98-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) If the department determines that an employing unit or other person that is not an employer under IC 22-4-7 at the time of the acquisition has acquired an employer's trade or business solely or primarily for the purpose of obtaining a lower employer contribution rate, the employing unit or other person:

(1) may not assume the experience rating account balance of the predecessor employer for the resources and liabilities of the predecessor employer's experience account that are attributable to the acquisition; and
(b) In determining whether an employing unit or other person acquired a trade or business solely or primarily for the purpose of obtaining a lower employer contribution rate under subsection (a), the commissioner shall consider the following factors:

(1) The cost of acquiring the trade or business.
(2) Whether the employing unit or other person continued the business enterprise of the acquired trade or business.
(3) The length of time the employing unit or other person continued the business enterprise of the acquired trade or business.
(4) Whether a substantial number of new employees were hired to perform duties unrelated to the business enterprise that the trade or business conducted before the trade or business was acquired.

(c) If the commissioner makes a determination that a violation of this chapter has occurred, the commissioner shall promptly refer the matter to an administrative law judge for a hearing and decision under this article:

(1) Any written determination made by the department is conclusive and binding on the employing unit or person, and the department shall be parties to the hearing before the liability administrative law judge and are entitled to receive copies of all pleadings and the decision.

SECTION 20. IC 22-4-11.5-9, AS ADDED BY P.L.98-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) A person who knowingly or recklessly:

(1) violates or attempts to violate:
   (A) section 7 or 8 of this chapter; or
   (B) any other provision of this article related to determining the assumption or assignment of an employer's contribution rate; or
(2) advises another person in a way that results in a violation of:
   (A) section 7 or 8 of this chapter; or
   (B) any other provision of this article related to determining the assumption or assignment of an employer's contribution rate;

shall pay the applicable contribution rate as determined under this chapter/article.

(b) In determining whether an employing unit or other person

(2) shall pay the applicable contribution rate as determined under this chapter/article.

In determining whether an employing unit or other person

(2) shall pay the applicable contribution rate as determined under this chapter/article.

section setting forth all reasons for the protest. A protest under this section must be filed not later than fifteen (15) days after the date the department sends the initial determination to the employing unit or other person. The protest shall be heard and determined under this section and IC 22-4-32-1 through IC 22-4-32-15. The department and the employing unit or other person shall be parties to the hearing before the liability administrative law judge and are entitled to receive copies of all pleadings and the decision.

SECTION 21. IC 22-4-11.5-10, AS AMENDED BY HEA 1040-2006, SECTION 344, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) In addition to any other penalty imposed, a person who knowingly, recklessly, or intentionally violates this chapter is subject to a civil penalty under this chapter:

(1) A written protest with the department setting forth all reasons for the protest. A protest under this section must be filed not later than fifteen (15) days after the date the department sends the initial determination to the employing unit or other person. The protest shall be heard and determined under this section and IC 22-4-32-1 through IC 22-4-32-15. The department and the employing unit or other person shall be parties to the hearing before the liability administrative law judge and are entitled to receive copies of all pleadings and the decision.

SECTION 22. IC 22-4-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. Benefits designated as unemployment compensation insurance benefits shall become payable from the fund to any individual who is or becomes unemployed and eligible for benefits under the terms of this article. All benefits shall be paid through employment offices maintained and operated by this state the department or such other agencies as the board department by rule may designate at such times and in such manner as the board department may prescribe, provided that the board The department may prescribe adopt rules to provide for the payment of benefits due and payable on executed vouchers to persons since deceased; benefits so due and payable may be paid to the legal representative, dependents, or next of kin of the deceased as are found to be entitled thereto, which rules need not conform with the laws of the state governing decedent estates, and every such payment shall be deemed a valid payment to the same extent as if made to the legal representative of the deceased.

SECTION 37. IC 22-4-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Whenever an individual receives benefits or extended benefits to which the individual is not entitled under:

(1) this article; or
(2) the unemployment insurance law of the United States; the department shall establish that an overpayment has occurred and establish the amount of the overpayment.

(b) An individual described in subsection (a) is liable to repay the established amount of the overpayment.

(c) Any individual who knowingly:

(1) makes, or causes to be made by another, a false statement or representation of a material fact knowing it to be false; or
knowingly
(2) fails, or causes another to fail, to disclose a material fact;
and as a result thereof has received any amount as benefits to which the individual is not entitled under this article, shall be liable to repay such amount, with interest at the rate of one-half percent (0.5%) per month, to the commissioner department for the unemployment insurance benefit fund or to have such amount deducted from any benefits otherwise payable to the individual under this article, within the six (6) year period following the later of the date of the filing of the claim or statement that resulted in the payment of such benefits; if the employer or the commissioner, or nonreimbursement, has become final by virtue of an unappealed determination of a deputy; or a decision of an administrative law judge; or the review board; or by a court of competent jurisdiction: the department establishes that an overpayment has occurred or the date that the determination of an overpayment becomes final following the exhaustion of all appeals.

(f) Any individual who, for any reason other than misrepresentation or nondisclosure as specified in subsection (e), has received any amount as benefits to which the individual is not entitled under this article or because of the subsequent receipt of income deductible from benefits which is allocable to the week or weeks for which such benefits were paid becomes not entitled to such benefits under this article shall be liable to repay such amount to the commissioner department for the unemployment insurance benefit fund or to have such amount deducted from any benefits otherwise payable to the individual under this article, within the three (3) year period following the later of the date of the filing of the claim or statement that resulted in the payment of such benefits; if the existence of such reason has become final by virtue of an unappealed determination of a deputy or a decision of an administrative law judge; or the review board; or by a court of competent jurisdiction: the department establishes that the overpayment occurred or the date that the determination that an overpayment occurred becomes final following the exhaustion of all appeals.

(e) When benefits are paid to an individual who was eligible or qualified to receive such payments, but when such payments are made because of the failure of representatives or employees of the department to transmit or communicate to such individual notice of suitable work offered, through the department, to such individual by an employing unit, then and in such cases, the individual shall not be required to repay or refund amounts so received, but such payments shall be deemed to be benefits improperly paid.

(f) Where it is finally determined by a deputy, an administrative law judge, the review board, or a court of competent jurisdiction that an individual has received benefits to which the individual is not entitled under this article, the commissioner department shall relieve the affected employer's experience account of any benefit charges directly resulting from such overpayment. However, an employer's experience account will not be relieved of the charges resulting from an overpayment of benefits which has been created by a retroactive payment by such employer directly or indirectly to the claimant for a period during which the claimant claimed and was paid benefits unless the employer reports such payment by the end of the calendar quarter following the calendar quarter in which the payment was made or unless and until the overpayment has been collected. Those employers electing to make payments in lieu of contributions shall not have their account relieved as the result of any overpayment unless and until such overpayment has been repaid to the unemployment insurance benefit fund.

(g) Where any individual is liable to repay any amount to the commissioner department for the unemployment insurance benefit fund for the restitution of benefits to which the individual is not entitled under this article, the amount due may be collectible without interest, except as otherwise provided in subsection (c), by civil action in the name of the state of Indiana, on relation of the department, which remedy by civil action shall be in addition to all other existing remedies and to the methods for collection provided in this section article.

(h) Liability for repayment of benefits paid to an individual (other than an individual employed by an employer electing to make payments in lieu of contributions) for any week may be waived upon the request of the individual if:
(1) the benefits were received by the individual without fault of the individual;
(2) the benefits were the result of payments made:
   (A) during the pendency of an appeal before an administrative law judge or the review board under IC 22-4-17 under which the individual is determined to be ineligible for benefits; or
   (B) because of an error by the employer or the department; and
(3) repayment would cause economic hardship to the individual.

SECTION 24. IC 22-4-13-1.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1.1. (a) Notwithstanding any other provisions of this article, if an individual knowingly:
(1) fails to disclose amounts earned during any week in the individual's waiting period, benefit period, or extended benefit period; or
(2) fails to disclose or has falsified any fact; that would disqualify the individual for benefits, reduce the individual's benefits, or render the individual ineligible for benefits or extended benefits, the individual forfeits any wage credits earned or any benefits or extended benefits that might otherwise be payable to the individual for the period in which the failure to disclose or falsification occurs.

(b) In addition to amounts forfeited under subsection (a), an individual is subject to the following civil penalties for each instance in which the individual knowingly fails to disclose or falsifies any fact that if accurately reported to the department would disqualify the individual for benefits, reduce the individual's benefits, or render the individual ineligible for benefits or extended benefits:
(1) For the first instance, an amount equal to twenty-five percent (25%) of the benefit overpayment.
(2) For the second instance, an amount equal to fifty percent (50%) of the benefit overpayment.
(3) For the third and each subsequent instance, an amount equal to one hundred percent (100%) of the benefit overpayment.

(c) The department's determination under this section constitutes an initial determination under IC 22-4-17-2(e) and is subject to a hearing and review under IC 22-4-17-3 through IC 22-4-17-15.

(d) Interest and civil penalties collected under this chapter shall be deposited in the special employment and training services fund established under IC 22-4-25-1.

SECTION 25. IC 22-4-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) An unemployed individual is eligible to receive benefits with respect to any week only if the individual has:
(1) registered for work at an employment office or branch thereof or other agency designated by the commissioner within the time limits that the board department by rule adopts; and
(2) subsequently reported with the frequency and in the manner, either in person or in writing, that the board department by rule adopts.

(b) Failure to comply with subsection (a) shall be excused by the commissioner or the commissioner's authorized representative upon a showing of good cause therefor. The board department shall by rule waive or alter the requirements of this section as to such types of cases or situations with respect to which the commissioner department finds that compliance with such requirements would be oppressive or would be inconsistent with the purposes of this article.

(c) The department shall provide job counseling or training to an individual who remains unemployed for at least four (4) weeks. The manner and duration of the counseling shall be determined by the board department.

(d) The board may by rule prescribe procedures for the issuance of unemployment compensation warrants from the local office.

(e) An individual who is receiving benefits as determined under IC 22-4-15-1(c)(8) is entitled to complete the reporting, counseling, or training that must be conducted in person at one stop center selected by the individual. The department shall advise an eligible individual that this option is available.
SECTION 26. IC 22-4-14-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) **This section does not apply to** An individual who is receiving benefits as determined under IC 22-4-15-1 (c) (8) may restrict the individual's availability because of the individual's need to address the physical, psychological, or legal effects of being a victim of domestic or family violence (as defined in IC 31-9-2-42).

(b) An unemployed individual shall be eligible to receive benefits with respect to any week only if the individual:

(1) is physically and mentally able to work;

(2) is available for work;

(3) is found by the department to be making an effort to secure full-time work and;

(4) participates in reemployment services, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and to need reemployment services under a profiling system established by the commissioner, unless the commissioner determines that:

(A) the individual has completed the reemployment services; or

(B) failure by the individual to participate in or complete the reemployment services is excused by the director under IC 22-4-14-2 (b).

The term "effort to secure full-time work" shall be defined by the board through rule which shall take into consideration whether such individual has a reasonable assurance of reemployment and, if so, the length of the prospective period of unemployment. However, if an otherwise eligible individual is unable to work or unavailable for work on any normal work day of the week the individual shall be eligible to receive benefits with respect to such week reduced by one-third (1/3) of the individual's weekly benefit amount for each day of such inability to work or unavailability for work.

(c) For the purpose of this article, unavailability for work of an individual exists in, but is not limited to, any case in which, with respect to any week, it is found:

(1) that such individual is engaged by any unit, agency, or instrumentality of the United States, in charge of public works or assistance through public employment; or any unit, agency, or instrumentality of this state, or any political subdivision thereof, in charge of any public works or assistance through public employment;

(2) that such individual is in full-time active military service of the United States, or is enrolled in civilian service as a conscientious objector to military service;

(3) that such individual is suspended for misconduct in connection with the individual's work; or

(4) that such individual is in attendance at a regularly established public or private school during the customary hours of the individual's occupation or is in any vacation period intervening between regular school terms during which the individual is a student. However, this subdivision does not apply to any individual who is attending a regularly established school, has been regularly employed and upon becoming unemployed makes an effort to secure full-time work and is available for suitable full-time work with the individual's last employer, or is available for any other full-time employment deemed suitable.

(d) Notwithstanding any other provisions in this section or IC 22-4-15-2, no otherwise eligible individual shall be denied benefits for any week because the individual is in training with the approval of the department, nor shall such individual be denied benefits with respect to any week in which the individual is in training with the approval of the department by reason of the application of the provisions of this section with respect to the availability for work or active search for work or by reason of the application of the provisions of IC 22-4-15-2 relating to failure to apply for, or the refusal to accept, suitable work. The commissioner shall by rule prescribe the conditions under which approval of such training will be granted.

SECTION 27. IC 22-4-15-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. Notwithstanding any other provisions of this article, benefits otherwise payable for any week under this article shall not be denied or reduced on account of any payment or payments the claimant receives, has received, will receive, or accrues right to receive with respect to or based upon such week under a private unemployment benefit plan financed in whole or in part by the individual's employer or former employer. No claim for repayment of benefits and no deduction from benefits otherwise payable under this article shall be made under IC 22-4-13-1 (d) IC 22-4-13-1 (d) and IC 22-4-13-1 (e) because of payments which have been or will be made under such private unemployment benefit plans.

SECTION 28. IC 22-4-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Claims for benefits shall be made in accordance with such regulations as the board may prescribe; however, rules adopted by the department. The board shall prescribe adopt reasonable procedures consistent with the provisions of this article for the expediting of the taking of claims of individuals for benefits in instances of mass layoffs by employers, the purpose of which shall be the minimization of the amount of time required for such individuals to file claims upon becoming unemployed as the result of such mass layoffs.

(b) Except when the result would be inconsistent with the other provisions of this article, as provided in the rules of the board, the provisions of this article which apply to claims, or the payment of, regular benefits shall apply to claims, and the payment of, extended benefits.

(c) Whenever an extended benefit period is to become effective in this state as a result of a state "on" indicator, or an extended benefit period is to be terminated in this state as a result of a state "off" indicator, the commissioner shall make an appropriate public announcement.

(d) Computations required by the provisions of IC 22-4-2-34(e) shall be made by the commissioner in accordance with regulations prescribed by the United States Secretary of Labor.

(e) Each employer shall display and maintain in places readily accessible to all employees posters concerning its regulations and shall make available to each such individual at the time the individual becomes unemployed printed benefit rights information furnished by the department.

SECTION 29. IC 22-4-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) When an individual files an initial claim, the department shall promptly make a determination of the individual's status as an insured worker in a form prescribed by the commissioner. A written notice of the determination of insured status shall be furnished to the individual promptly. Each such determination shall be based on and include a written statement showing the amount of wages paid to the individual for insured work by each employer during the individual's base period and shall include a finding as to whether such wages meet the requirements for the individual to be an insured worker, and, if so, the week ending date of the first week of the individual's benefit period, the individual's weekly benefit amount, and the maximum amount of benefits that may be paid to the individual for weeks of unemployment in the individual's benefit period. For the individual who is not insured, the notice shall include the reason for the determination. Unless the individual, within ten (10) days after such determination was mailed to the individual's last known address, or otherwise delivered to the individual, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits shall be paid or denied in accordance therewith.

(b) Except as provided in subsection (i), the department shall promptly furnish each employer in the base period whose experience or reimbursable account is potentially chargeable with benefits to be paid to such individual with a notice in writing of the employer's benefit liability. Such notice shall contain the date, the name and Social Security account number of the individual, the ending date of the individual's base period, and the week ending date of the first week of the individual's benefit period, and such notice shall further contain information as to the proportion of benefits chargeable to the employer's experience or reimbursable account in ratio to the earnings of such individual from such employer. Unless the employer, within ten (10) days after such notice of benefit liability was mailed to the employer's last known address, or otherwise delivered to the
employer, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits paid shall be charged in accordance therewith.

(c) An employing unit, including an employer, having knowledge of any facts which may affect an individual's eligibility or right to waiting period credits or benefits, shall notify the department of such facts within ten (10) days after the mailing of notice that a former employee has filed an initial or additional claim for benefits on a form prescribed by the board department.

(d) In addition to the foregoing determination of insured status by the department, the deputy shall, throughout the benefit period, determine the claimant's eligibility with respect to each week for which the claimant claims waiting period credit or benefit rights, the validity of the claimant's claim therefor, and the cause for which the claimant left the claimant's work, or may refer such claim to an administrative law judge who shall make the initial determination with respect thereto in accordance with the procedure in IC 22-4-17-3.

(e) In cases where the claimant's benefit eligibility or disqualification is disputed, the department shall promptly notify the claimant and the employer or employers directly involved or connected with the issue raised as to the validity of such claim, the eligibility of the claimant for waiting period credit or benefits, or the imposition of a disqualification period or penalty, or the denial thereof, and of the cause for which the claimant left the claimant's work, of such determination and the reasons thereof. Except as otherwise hereinafter provided in this subsection regarding parties located in Alaska, Hawaii, and Puerto Rico, unless the claimant or such employer, within ten (10) days after such notification was mailed to the claimant's or the employer's last known address, or otherwise delivered to the claimant or the employer, asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. With respect to notice of disputed administrative determination or decision mailed or otherwise delivered to the claimant or employer either of whom is located in Alaska, Hawaii, or Puerto Rico, unless such claimant or employer, within fifteen (15) days after such notification was mailed to the claimant's or employer's last known address or otherwise delivered to the claimant or employer, asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. If such hearing is desired, the request therefor shall be filed with the commissioner department in writing within the prescribed periods as above set forth in this subsection and shall be in such form as the board department may prescribe. In the event a hearing is requested by an employer or the department after it has been administratively determined that benefits should be allowed to a claimant, entitled benefits shall continue to be paid to said claimant unless said administrative determination has been reversed by a due process hearing. Benefits with respect to any week not in dispute shall be paid promptly regardless of any appeal.

(f) A person may not participate on behalf of the department in any case in which the person is an interested party.

(g) Solely on the ground of obvious administrative error appearing on the face of an original determination, and within the benefit year of the affected claims, the commissioner, or a representative authorized by the commissioner to act in the commissioner's behalf, may reconsider and direct the deputy to revise the original determination so as to correct the obvious error appearing therein. Time for filing an appeal and requesting a hearing before an administrative law judge regarding the determinations handed down pursuant to this subsection shall begin on the date following the date of revision of the original determination and shall be filed with the commissioner in writing within the prescribed periods as above set forth in subsection (c).

(h) Notice to the employer and the claimant that the determination of the department is final if a hearing is not requested shall be prominently displayed on the notice of the determination which is sent to the employer and the claimant.

(i) If an allegation of the applicability of IC 22-4-15-1(c)(8) is made by the individual at the time of the claim for benefits, the department shall not notify the employer that a claim for benefits has been made of the claimant's current address or physical location.
this section, "interested party" has the meaning set forth in 646 IAC 3-12-1.

(b) An administrative law judge and or the review board may hold a hearing under this chapter by telephone if any of the following conditions exist:

(1) The claimant or the employer is not located in Indiana.

(2) All of the following conditions exist:

(A) The claimant and the employer are located in Indiana.

(B) The claimant or the employer. An interested party requests without an objection being filed as provided in 646 IAC 3-12-21 that the hearing be held by telephone.

(C) The administrative law judge or the review board determines that the distance between the location of the claimant and the location of the employer is so great that a hearing held by telephone is justified under the circumstances.

(D) An interested party cannot appear in person because of an illness or injury to the party.

(4) In the case of a hearing before an administrative law judge, the administrative law judge determines without any interested party filing an objection as provided in 646 IAC 3-12-21 that a hearing by telephone is proper and just.

(5) In the case of a hearing before the review board, the issue to be adjudicated does not require both parties to be present.

(6) In the case of a hearing before the review board, the unemployment insurance review board has determined that a hearing by telephone is proper and just.

SECTION 35. IC 22-4-17-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the board, the department, the review board, an administrative law judge, or the duly authorized representative of any of them in obedience to the subpoena of any of them in any cause or proceeding before any of them on the ground that the testimony or evidence, documentary or otherwise, required of him the person may tend to incriminate him the person or subject him the person to a penalty or forfeiture, but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he the person is compelled after having claimed his the privilege against self-incrimination to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. Any testimony or evidence submitted in due course before the board, the department, the review board, an administrative law judge, or any duly authorized representative of any of them shall be deemed a communication presumptively privileged with respect to any civil action except actions to enforce the provisions of this article.

SECTION 36. IC 22-4-17-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) This section applies to notices given under sections 2, 3, 11, and 12 of this chapter. This section does not apply to rules adopted by the board or the department, unless specifically provided.

(b) As used in this section, "notices" includes mailings of notices, determinations, decisions, orders, motions, or the filing of any document with the appellate division or review board.

(c) If a notice is served through the United States mail, three (3) days must be added to a period that commences upon service of that notice.

(d) The filing of a document with the appellate division or review board is complete on the earliest of the following dates that apply to the filing:

(1) The date on which the document is delivered to the appellate division or review board.

(2) The date of the postmark on the envelope containing the document if the document is mailed to the appellate division or review board by the United States Postal Service.

(3) The date on which the document is deposited with a private carrier, as shown by a receipt issued by the carrier, if the document is sent to the appellate division or review board by a private carrier.

SECTION 37. IC 22-4-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The Indiana unemployment insurance board is created. The board is responsible for the oversight of the unemployment insurance program. The board shall report annually to the governor on the status of unemployment insurance together with recommendations for maintaining the solvency of the unemployment insurance benefit fund. The department staff shall provide support to the board. The unemployment insurance board shall consist of nine (9) members, who shall be appointed by the governor, as follows:

(1) Four (4) members shall be appointed as representatives of labor and its interests.

(2) One (1) member shall be appointed as a representative of the state and its interest and of the public at large.

(3) Two (2) members shall be appointed as representatives of the large employers of the state.

(4) Two (2) members shall be appointed as representatives of the independent merchants and small employers of the state.

All appointments shall be made for terms of four (4) years. All appointments to full terms or to fill vacancies shall be made so that all terms end on March 31.

(b) Every Indiana unemployment insurance board member so appointed shall serve until a successor shall have been appointed and qualified before entering into the performance of official duties, each member of the board shall take and subscribe to an oath of office, which shall be filed in the office of the secretary of state. Any vacancy occurring in the membership of the board for any cause shall be filled by appointment by the governor for the unexpired term. The governor may, at any time, remove any member of the board for misconduct, incapacity, or neglect of duty. Each member of the board shall be entitled to receive as compensation for the member's services the sum of one hundred dollars ($100) per month for each and every month which he the member devotes to the actual performance of the member's duties, as prescribed in this article, but the total amount of such compensation shall not exceed the sum of twelve hundred dollars ($1,200) per year. In addition to the compensation hereinbefore prescribed, each member of the board shall be entitled to receive the amount of traveling and other necessary expenses actually incurred while engaged in the performance of official duties.

(c) The board shall may hold one (1) regular meeting each month and such called meetings as may be deemed necessary by the commissioner or the board. The April meeting shall be known as the annual meeting. Five (5) members of the board constitute a quorum for the transaction of business. At its first meeting and at each annual meeting held thereafter, the board shall organize by the election of a president and vice president from its own number, each of whom, except those first elected, shall serve for a term of one (1) year and until a successor is elected.

SECTION 38. IC 22-4-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. It shall be the duty of The board to administer the provisions of this article and in addition to all other powers conferred on the board it shall have the power and authority to adopt, amend, or rescind such rules and regulations to employ such persons, make such expenditures, require such reports, make such investigations and take such other action as it may deem necessary or suitable for the proper administration of this article. All rules and regulations issued under the provisions of this article shall be effective upon publication in the manner hereinafter provided and shall have the force and effect of law. The board may prescribe the extent, if any, to which any rule or regulation so issued or legal interpretation of this article shall be with or without retroactive effect. Whenever the board believes that a change in contribution or benefit rates will become necessary to protect the solvency of the unemployment insurance benefit fund, it shall promptly so inform the governor and the general assembly, and make recommendations with respect thereto.

SECTION 39. IC 22-4-19-15 IS AMENDED BY P.L.4-2005, SECTION 131. IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) Each employing unit shall keep true and accurate records containing information the department considers necessary. These records are:

(1) open to inspection; and

(2) subject to being copied;
by an authorized representative of the department at any reasonable
time and as often as may be necessary. The commissioner
department, the review board, or an administrative law judge may
require from any employing unit any verified or unverified report,
with respect to persons employed by it, which is considered necessary
for the effective administration of this article.

(b) Except as provided in subsections (d) and (f), information
obtained or obtained from any person in the administration of this
article and the records of the department relating to the
unemployment tax, the skills 2016 assessment under IC 22-4-10.5-3,
or the payment of benefits is confidential and may not be published
or be open to public inspection in any manner revealing the
individual’s or the employing unit’s identity, except in obedience to an
order of a court or as provided in this section.

(c) A claimant at a hearing before an administrative law judge or
the review board shall be supplied with information from the records
referred to in this section to the extent necessary for the proper
presentation of the subject matter of the appearance. The
commissioner department may make the information necessary for
a proper presentation of a subject matter before an administrative law
judge or the review board available to an agency of the United States
or an Indiana state agency.

(d) The commissioner department may release the following
information:

(1) Summary statistical data may be released to the public.
(2) Employer specific information known as ES 202 data and
data resulting from enhancements made through the business
establishment list improvement project may be released to the
Indiana economic development corporation only for the
following purposes:
   (A) The purpose of conducting a survey.
   (B) The purpose of aiding the officers or employees of the
Indiana economic development corporation in providing
economic development assistance through program
development, research, or other methods.
(3) Other purposes consistent with the goals of the Indiana
economic development corporation and not inconsistent with
those of the department.
(3) Employer specific information known as ES 202 data and
data resulting from enhancements made through the business
establishment list improvement project may be released to the
budget agency only for aiding the employees of the budget
agency in forecasting tax revenues.

(4) Information obtained from any person in the administration
of this article and the records of the department relating to the
unemployment tax or the payment of benefits for use by the
following governmental entities:
   (A) department of state revenue; or
   (B) state or local law enforcement agencies;
   only if there is an agreement that the information will be kept
confidential and used for legitimate governmental purposes.

(e) The commissioner department may make information
available under subsection (d)(1), (d)(2), or (d)(3) only:

(i) if:
   (A) data provided in summary form cannot be used to
identify information relating to a specific employer or
specific employee; or
   (B) there is an agreement that the employer specific
information released to the Indiana economic development
corporation or the budget agency will be treated as
confidential and will be released only in summary form that
cannot be used to identify information relating to a specific
employer or a specific employee; and
(2) after the cost of making the information available to the
person requesting the information is paid under IC 5-14-3.

(f) In addition to the confidentiality provisions of subsection (b),
the fact that a claim has been made under IC 22-4-15-1(c)(8) and
any information furnished by the claimant or an agent to the
department to verify a claim of domestic or family violence is
are confidential. This information concerning the claimant’s current
address or physical location shall not be disclosed to the employer
or any other person. Disclosure is subject to the following additional
restrictions:

(1) The claimant must be notified before any release of
information.
(2) Any disclosure is subject to redaction of unnecessary
identifying information, including the claimant’s address.

(g) An employee:
   (1) of the department who recklessly violates subsection (a), (c),
   (d), (e), or (f); or
   (2) of any governmental entity listed in subsection (d)(4) of this
chapter who recklessly violates subsection (d)(4) of this
chapter, commits a Class B misdemeanor.

(h) An employee of the Indiana economic development corporation
or the budget agency who violates subsection (d) or (e) commits
Class B misdemeanor.

(i) An employer or agent of an employer that becomes aware that
a claim has been made under IC 22-4-15-1(c)(8) shall
maintain that information as confidential.

SECTION 40. IC 22-4-19-7 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. In any case where
an employing unit, or any officer, member, or agent thereof or any
other person having possession of the records thereof, shall fail or
refuse upon demand by the board, the department, or the
administrative law judge, or the duly authorized representative
of any of them, to produce or permit the examination or copying of
any book, paper, account, record, or other data pertaining to payrolls
or employment or ownership of interests or stock in any employing
unit, or bearing upon the correctness of any contribution report or the
skills 2016 training assessment under IC 22-4-10.5-3, or for the
purpose of making a report as required by this article where none has
been made, then and in that event the board, the department,
the review board, or the administrative law judge, or the duly authorized
representative of any of them, may by issuance of a subpoena require
the attendance of such employing unit, or any officer, member, or
agent thereof or any other person having possession of the records
thereof, and take testimony with respect to any such matter and may
require any such person to produce any books or records specified in
such subpoena.

SECTION 41. IC 22-4-19-8 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) The board, the
department, the review board, or the administrative law judge, or the
duly authorized representative of any of them, at any such hearing
shall have power to administer oaths to any such person or persons.
When any person called as a witness by such subpoena, duly signed,
and served upon him the witness, by any duly authorized person or by
the sheriff of the county of which such person is a resident, or wherein
is located the principal office of such employing unit or wherein such
records are located or kept, shall fail to obey such subpoena to appear
before the board, the department, the review board, or the
administrative law judge, or the duly authorized representative of any
of them, or shall refuse to testify or to answer any questions, or to
produce any book, record, paper, or other data when notified and
demanded so to do, such failure or refusal shall be reported to the
attorney general for the state of Indiana who shall thereupon institute
proceedings by the filing of a petition in the name of the state of
Indiana on the relation of the board, in the circuit court or superior or
other court of competent jurisdiction of the county where such witness
resides, or wherein such records are located or kept, to compel
obedience of and by such witness.

(b) Such petition shall set forth the facts and circumstances of the
demand for and refusal or failure to permit the examination or
copying of such records or the failure or refusal of such witness to
 testify in answer to such subpoena or to produce the records so
required by such subpoena. Such court, upon the filing and
docketing of such petition shall thereupon promptly issue an order to
the defendants named in said petition, to produce forthwith in such court
or at a place in such county designated in such order, for the
examination or copying by the board, the department, the
review board, an administrative law judge, or the duly authorized
representative of any of them, the records, books, or documents so
described and to testify concerning matters described in such petition.
Unless such defendants to such petition shall appear in said court
upon a day specified in such order, which said day shall be not more
than ten (10) days after the date of issuance of such order, and offer,
under oath, good and sufficient reasons why such examination or copying should not be permitted, or why such subpoena should not be obeyed, such court shall thereupon deliver to the board, the department, the review board, the administrative law judge, or representative of any of them, for examination or copying, the records, books and documents so described in said petition and so produced in such court and shall order said defendants to appear in answer to the subpoena, and to testify concerning the subject matter of the inquiry. Any employing unit, or any officer, member, or agent thereof, or any other persons having possession of the records thereof, who shall willfully disobey such order of the court after the same shall have been served upon him, shall be guilty of indirect contempt of such court from which such order shall have issued and may be adjudged in contempt of said court and punished therefore as provided by law.

SECTION 42. IC 22-4-22-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The commissioner is authorized to enter into reciprocal agreements with the proper agencies under the laws of other states or jurisdictions or of the United States, which agreements shall become effective after filing with the secretary of state pursuant to IC 22-4-19-2, in accordance with rules adopted by the department under IC 4-22-2, by the terms of which agreements:

(1) payments to benefits accumulated under the unemployment compensation laws of one (1) or more states or jurisdictions or of the United States, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the commissioner finds will be fair and reasonable to all affected interests and which will not result in any substantial loss to the fund; and
(2) wages or services in employment subject to an unemployment compensation law of another state or of the United States shall be deemed to be wages in employment for employers for the purpose of determining an individual's rights to unemployment compensation benefits under this article, and wages in employment for employers as defined in this article shall be deemed to be wages or services on the basis of which unemployment compensation under the laws of another state or of the United States is payable, but no such arrangement shall be entered into unless it contains provisions for reimbursements to the unemployment insurance benefit fund for such of the unemployment compensation benefits paid under this part upon the basis of such wages or services, and provisions for reimbursements from the unemployment insurance benefit fund for such of the compensation paid under such other law upon the basis of wages for employment as defined in this article as the commissioner finds will be fair and reasonable to all affected interests.

SECTION 43. IC 22-4-22-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. In order that the administration of this article and the unemployment compensation insurance laws of other states or jurisdictions or of the United States of America will be promoted by cooperation between this state and such other states or jurisdictions or the appropriate agencies of the United States in exchanging services and making available facilities and information, the board and the department are authorized to make such investigations, secure and transmit such information, make available such services and facilities, and exercise such of the other powers provided in this article with respect to the administration of this article as it deems necessary or appropriate to facilitate the administration of any unemployment compensation insurance law and in like manner to accept and utilize information, services, and facilities made available to this state by the agency or jurisdiction charged with the administration of any such other unemployment compensation insurance law.

SECTION 44. IC 22-4-22-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) On request of an agency which administers an employment security law of another state or of a foreign government, and which has found in accordance with the provisions of such law that a claimant is liable to repay benefits received under such law by reason of having knowingly made a false statement or misrepresentation of a material fact, or who has knowingly failed to disclose a material fact, with respect to a claim taken in this state as an agent for such agency, the board department may collect from such claimant for the liable state the amount of such benefits to be refunded to such agency.

(b) In any case in which under this subsection a claimant is liable to repay any amount to the agency of another state, or of a foreign government, such amounts may be collected without interest by civil action in the name of the board department acting as agent for such agency.

SECTION 45. IC 22-4-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUILY 1, 2006]: Sec. 1. (a) The department shall establish and maintain free public employment and training offices in such number and in such places as may be necessary for the proper administration of this article and for the purpose of performing such duties as are within the purview of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014 and any amendments thereto. The provisions of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014 are hereby declared accepted by the state in conformity with the terms of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014, and the state commits itself to the observation of and compliance with the requirements of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014, and the department is constituted the agency of the state for all purposes of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014. All duties and powers conferred upon any other department, agency, or office of the state relative to the establishment, maintenance, and operation of free public employment offices shall be vested in the board department. The board department being charged with the duty to cooperate with any official or agency of the United States having powers or duties under the provisions of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014, shall be and is authorized and empowered to do and perform all things necessary to secure to this state the benefits of 29 U.S.C. 49 et seq. and 38 U.S.C. 2000 through 2014. The department may cooperate with or enter into agreements with the railroad retirement board with respect to the establishment, maintenance, and use of free employment service facilities.

(b) The department may do all acts and things necessary or proper to carry out the powers expressly granted under this article.

SECTION 46. IC 22-4-25-2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) As used in this section, "fund" refers to the special employment and training services fund created under section 1 of this chapter.

(b) The commissioner may allocate an amount not to exceed two million dollars ($2,000,000) annually from the fund to establish reemployment training accounts to provide training and reemployment services to department employees disaggregated by:

- (1) a reduction of funding for;
- (2) a centralization or decentralization of; or
- (3) the implementation of a more efficient technology or service delivery method in connection with:

the programs and services provided under this article.

SECTION 47. IC 22-4-26-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. The fund shall be administered exclusively for the purpose of this article, and money withdrawn therefrom, except for deposit in the unemployment insurance benefit fund and for refund, as provided in this article, and except for amounts credited to the account of this state pursuant to 42 U.S.C. 1103, as amended, which shall be used exclusively as provided in section 5 of this chapter, shall be used solely for the payment of benefits. Payment of benefits and refunds shall be made in accordance with the rules prescribed by the board department consistent with the provisions of this article. Withdrawals from the fund except as provided in section 5 of this chapter shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody.

SECTION 48. IC 22-4-29-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUILY 1, 2006]: Sec. 4. If the employing unit protests such assessment, upon written request it shall have an opportunity to be heard, and such hearing shall be conducted by a liability administrative law judge pursuant to the provisions of IC 22-4-32-1 through IC 22-4-32-15. After the hearing the liability administrative law judge shall immediately notify the employing unit in writing of the finding, and the assessment, if any, so made shall be final, in the absence of judicial review proceedings as provided in this
article, fifteen (15) thirty (30) days after such notice of appeal is issued.

SECTION 49. IC 22-4-29-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. The finality of such decision of the liability administrative law judge may be stayed for a period of thirty (30) days from the date of service of notice on the board of intention to seek a judicial review department of the appeal of said decision as provided in this article. Provided Such notice is must be served within fifteen (15) thirty (30) days after notice of the decision of the liability administrative law judge is issued. If judicial review proceedings are not instituted within the time provided for in this article, the finality of said decision shall not be further stayed.

SECTION 50. IC 22-4-30-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. Any employer against whom contributions shall be assessed as provided in this article shall be restrained and enjoined upon the order of the board department by proper proceedings instituted in the name of the state of Indiana, brought by the attorney general for the state of Indiana and/or any prosecuting attorney at the request of the board department, from engaging and/or continuing in business in this state until the contributions, interest, penalties, and damages shall have been paid and until such employer shall have complied with the provisions of this article; and such attorneys shall prosecute violations of criminal provisions of this article upon request of the board department.

SECTION 51. IC 22-4-31-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) If any contributions, interest, penalties, or damages assessed under this article, or any portion thereof, be not paid within one hundred twenty (120) days after the same is found to be due, a receiver may be appointed by the circuit or superior court of the county in which such employer resides or in which the employer is doing business or in which the employer's resident agent is located in a proceeding requesting such appointment instituted against the said employer in the name of the state of Indiana, brought by the attorney general for the state of Indiana at the request of the board department.

(b) The court shall appoint a receiver when it finds that the employer has not paid the contributions or amounts due imposed by this article within one hundred twenty (120) days after the same is found to be due, and that contributions, interest, penalties, or damages, or any portion thereof, is unpaid and delinquent. Such cause for the appointment of a receiver shall be in addition to all other causes or grounds provided by law for the appointment of receivers and shall be in addition to all other methods for the enforcement of this article.

(c) Each such receiver shall give bond and be sworn as provided for by law and shall have power under the control of the court to bring and defend actions, to take and keep possession of the property of the employer, to receive all funds and collect any debts due to the employer, in the receiver's name, and generally to do such acts respecting the property as the court shall authorize, and shall have all the powers granted to, or shall be subject to all the duties of, receivers under the laws of this state.

SECTION 52. IC 22-4-31-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) If, after due notice, any employing unit defaults in the payment of any contributions or other money payments required by this article, the amount due may be collected by civil action in the name of the state of Indiana on the relation of the commissioner department. Such civil action is not to be considered as the exclusive method for collection of the contributions or money payments but is in addition to the method provided in IC 22-4-29-2 through IC 22-4-29-12 and is to be brought only in such cases as the board department may deem advisable in the interest of necessity and convenience.

(b) Unless the employing unit prevails in a civil action brought under this chapter, the court may award costs, including reasonable attorney's fees, incurred by the state in bringing the action.

SECTION 53. IC 22-4-31-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. It is expressly provided that the foregoing remedies shall be cumulative and shall be in addition to all other existing remedies, and that no action taken by the board department or its duly authorized representative, the attorney general for the state of Indiana, or any other officer shall be construed to be an election on the part of the state or any of its officers to pursue any remedy to the exclusion of any other remedy.

SECTION 54. IC 22-4-32-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. A liability administrative law judge shall hear all matters pertaining to:

1. The assessment of contributions, penalties, and interest;
2. Which accounts, if any, benefits paid, or finally ordered to be paid, should be charged;
3. Successorships, and related matters arising therefrom, including but not limited to:
   
   A. The transfer of accounts; and
   
   B. The determination of rates of contribution; and
   
   C. Determinations under IC 22-4-11.5; and
   
   D. Claims for refunds of contributions, skills 2016 training assessments, or adjustments thereon in connection with subsequent contribution payments and skills 2016 training assessments;
   
   Shall be heard by a liability administrative law judge upon proper application for such hearing, for which an employing unit has timely filed a protest under section 4 of this chapter.

SECTION 55. IC 22-4-32-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The proceedings before a liability administrative law judge shall be commenced in accordance with such rules of practice and procedure as the board department may prescribe adopted under its rulemaking authority as contained in IC 22-4-11.2 under IC 22-4-18.1. Any person representing any interested party in the prosecution or defense of any proceedings before a liability administrative law judge must be admitted to practice law in the courts of the state of Indiana, except that persons admitted to practice before the courts of other states may on special order be permitted to appear in any proceeding before the liability administrative law judge. Provided, however, that nothing in this section shall be construed to prohibit an interested party from electing to be heard in his own cause without counsel.

SECTION 56. IC 22-4-32-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. An employing unit shall have fifteen (15) calendar days, beginning on the date an initial determination is mailed to the employing unit, within which to protest in writing an initial determination determination of the commissioner department with respect to:

1. The assessments of contributions, penalties, and interest;
2. The transfer of charges from an employer's account;
3. Merit rate calculations;
4. Successorships;
5. The denial of claims for refunds and adjustments; and
6. A protest arising from an initial determination of the director relating to any matter listed in subdivisions (1) through (5).

(a) A protest under IC 22-4-11.5. The fifteen (15) day period shall commence with the day following the day upon which the initial determination or denial of claim for refund or adjustment is mailed to the employing unit.

SECTION 57. IC 22-4-32-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. After the hearing the liability administrative law judge shall as soon as practicable notify the interested parties in writing of the finding and decision of the liability administrative law judge, which shall become final fifteen (15) thirty (30) days thereafter in the absence of judicial review proceedings the filing of a notice of appeal as provided in this chapter.

SECTION 58. IC 22-4-32-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. A notice of intention to institute judicial review proceedings appeal shall be a prerequisite to such action, shall be served on the adverse party at any time before and the decision of the liability administrative law judge becomes final, and shall stay the finality of and the decision for a period of thirty (30) days from the service of such notice. Provided, however, that if an appeal from such the decision of the liability administrative law judge is not perfected within the time provided for by this article, no action or proceeding shall be further stayed.

SECTION 59. IC 22-4-32-11 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. The board of department, by rule, may require the appellant to deposit with the department an amount sufficient to pay the actual costs of preparing the transcript of the record of the proceedings before the liability administrative law judge before preparing the same.

SECTION 60. IC 22-4-32-19, AS AMENDED BY P.L.202-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 19. (a) The department may grant an application for adjustment or refund, make an adjustment or refund, or set off a refund as follows:

(1) (⇒) At any time within Not later than four (4) years after the date upon which any contributions, skills 2016 training assessments under IC 22-4-10-5-3, or interest thereon were paid, an employing unit which has paid such contributions, skills 2016 training assessments, or interest thereon may make application for an adjustment or a refund of such contributions, skills 2016 training assessments, or an adjustment thereon in connection with subsequent contribution payments or skills 2016 training assessments. The commissioner department shall thereupon determine whether or not such contribution or skills 2016 training assessment, or interest or any portion thereof, was erroneously paid or wrongfully assessed, and notify the employing unit in writing of its decision.

(b) Such decision shall constitute the initial determination referred to in section 4 of this chapter and shall be subject to hearing and review as provided in sections 4 through 15 of this chapter.

(⇒) (2) The commissioner department may grant such application in whole or in part and may allow the employing unit to make an adjustment, thereof without interest, in connection with subsequent contribution payments or skills 2016 training assessments, if such adjustment cannot be made: the commissioner may or refund such amounts, without interest, from the fund. For like cause and within the same period: Adjustments or refund may be made on the commissioner's own initiative.

(3) Any adjustments or refunds of interest or penalties collected for contributions due under IC 22-4-10-1 shall be charged to and paid from the special employment and training services fund created by IC 22-4-25. Any adjustments or refunds of interest or penalties collected for skills 2016 training assessments due under IC 22-4-10-5-3 shall be charged to and paid from the skills 2016 training fund established by IC 5-28-27-3.

(4) The department may set off any refund available to an employer under this section against any delinquent contributions, payments in lieu of contributions, skills 2016 training assessments, and the interest and penalties, if any, related to the delinquent payments and assessments.

(b) Any decision by the department to:

(1) grant an application for adjustment or refund;
(2) make an adjustment or refund on its own initiative; or
(3) set off a refund;

constitutes the initial determination referred to in section 4 of this chapter and is subject to hearing and review as provided in sections 4 through 15 of this chapter.

(⇒) (c) If any assessment has become final by virtue of a decision of a liability administrative law judge with the result that no proceeding for judicial review as provided in this article was instituted, no refund or adjustment with respect to such assessment shall be made.

SECTION 61. IC 22-4-32-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 24. (a) This section applies to notices given under sections 4, 7, 8, and 9 of this chapter.

(b) As used in this section, "notices" includes mailings pertaining to:

(1) the assessment of contributions, skills 2016 training assessments under IC 22-4-10-5-3, penalties, and interest;
(2) the transfer of charges from an employer's account;
(3) successions and related matters arising from successions;
(4) claims for refunds and adjustments;
(5) violations under IC 22-4-11.5;

(6) decisions; and
(7) notices of intention to appeal or seek judicial review.

(c) If a notice under this chapter is served through the United States Postal Service, three (3) days must be added to a period that commences upon service of that notice.

(d) The filing of a document with the appellate unemployment insurance appeals division or review board is complete on the earliest of the following dates that apply to the filing:

(1) The date on which the document is delivered to the appellate unemployment insurance appeals division or review board.
(2) The date of the postmark on the envelope containing the document if the document is mailed to the appellate unemployment insurance appeals division or review board by the United States Postal Service.
(3) The date on which the document is deposited with a private carrier, as shown by a receipt issued by the carrier, if the document is sent to the appellate unemployment insurance appeals division or review board by a private carrier.

SECTION 62. IC 22-4-34-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. A person who knowingly fails to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, in obedience to a subpoena of the board, the department, the review board, an administrative law judge, or any duly authorized representative of any of them, commits a Class C misdemeanor. Each day a violation continues constitutes a separate offense.

SECTION 63. IC 22-4-35-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. All criminal actions for violations of this article shall be prosecuted by the prosecuting attorney of any county, or with the assistance of the attorney general or a United States attorney, if requested by the commissioner, in which the employer has a place of business or the alleged violator resides.

SECTION 64. IC 22-4-37-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. It is declared to be the purpose of this article to secure to the state of Indiana and to employers and employees therein all the rights and benefits which are conferred under the provisions of 42 U.S.C. 501 through 504, 42 U.S.C. 1101 through 1109, 26 U.S.C. 3301 through 3311, and 29 U.S.C. 49 et seq., and the amendments thereto. Whenever the board department shall find it necessary, it shall have power to formulate rules after public hearing and opportunity to be heard whereof due notice is given as is provided in this article for the adoption of rules pursuant to IC 22-4-19-2; IC 4-22-2, and with the approval of the governor of Indiana, to adopt such rules as shall effectuate the declared purposes of this article.

SECTION 65. IC 22-4-37-3, AS AMENDED BY P.L.214-2005, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) Should:

(1) the Congress of the United States amend, repeal, or authorize the implementation of a demonstration project under 29 U.S.C. 49 et seq., 26 U.S.C. 3301 through 3311, 42 U.S.C. 301 et seq., or 26 U.S.C. 3101 through 3504, or any statute or statutes supplemental to or in lieu thereof or any part or parts of said statutes, or should any or all of said statutes or any part or parts thereof be held invalid, to the end and with such effect that appropriations of funds by the said Congress and grants thereof to the state for the payment of costs of administration of the department of workforce development are or no longer shall be available for such purposes; or

(2) the primary responsibility for the administration of 26 U.S.C. 3301 through 3304 be transferred to the state as a demonstration project authorized by Congress; or

(3) employers in Indiana subject to the payment of tax under 26 U.S.C. 3301 through 3311 be granted full credit upon such tax for contributions or taxes paid to the department of workforce development then, beginning with the effective date of such change in liability for payment of such federal tax and for each year thereafter, the normal contribution rate under this article shall be established by the department of workforce development and may not exceed three and one-half percent (3.5%) per year of each employer's payroll subject to contribution. With respect to each employer having a rate of
(10) The director of the office of energy and defense development.

(11) The following local government representatives:

(A) One (1) member of the county executive of each county that contains all or part of a military base, appointed by the county executive.

(B) One (1) member of the county fiscal body of each county that contains all or part of a military base, appointed by the county fiscal body.

(C) One (1) member:

(i) who is the executive of the municipality having the largest population in each county that contains all or part of a military base if that municipality is a city;

(ii) who is appointed from the membership of the fiscal body of that town, if a town is the municipality having the largest population in the county.

(D) One (1) member of the legislative body of the municipality having the largest population in each county that contains a military base, appointed by the legislative body of that municipality.

(E) One (1) member of the county executive of each county listed in IC 36-7-30.5-10(4) through IC 36-7-30.5-10(6), appointed by the county executive.

SECTION 3. 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
(A) 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 established under IC 36-7-34-(2), 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.

(E) In the case of a business that uses the services or commodities in a qualified military base enhancement area established under IC 36-7-34-(2), 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 and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the business and the qualified military base (as defined in IC 36-7-34-3).

However, this subdivision does not apply to a business that substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations in an area described in this subdivision, unless the department determines that the business had existing operations in the area described in this subdivision and that the operations relocated to the area are an expansion of the business's operations in the area.

SECTION 4. IC 6-3-2-1.5, AS AMENDED BY P.L.203-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1.5. (a) As used in this section, "qualified area" means:

(1) a military base (as defined in IC 36-7-30-1(c));
(2) a military base reuse area established under IC 36-7-30;
(3) 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));
(4) a military base recovery site designated under IC 6-3.1-11.5; or
(5) a qualified military base enhancement area established under IC 36-7-34.

(b) Except as provided in subsection (c), a tax at the rate of five percent (5%) of adjusted gross income is imposed on that part of the adjusted gross income of a corporation that is derived from sources within a qualified area if the corporation locates all or part of its operations in a qualified area during the taxable year, as determined under subsection (g). The tax rate under this section applies to the taxable year in which the corporation locates its operations in the qualified area and to the next succeeding four taxable years.

(c) In the case of a corporation that locates all or part of its operations in a qualified military base enhancement area established under IC 36-7-34-(1), the tax rate imposed under this section applies to the corporation only if the corporation meets at least one (1) of the following criteria:

(1) The corporation is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).

(2) The corporation is a United States Department of Defense contractor.

(3) The corporation and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the corporation 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.

SECTION 5. IC 6-3.1-11.6-9, AS AMENDED BY P.L.203-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) Subject to subsection (c), a taxpayer is entitled to a credit against the taxpayer's state tax liability for a taxable year if the taxpayer makes a qualified investment in that taxable year.

(b) The amount of the credit to which a taxpayer is entitled is the percentage determined under section 12 of this chapter multiplied by the amount of the qualified investment made by the taxpayer during the taxable year.

(c) This subsection applies to a taxpayer making a qualified investment in a business located in a qualified military base enhancement area established under IC 36-7-34-(1). To qualify for a credit under this chapter, the taxpayer's qualified investment must be in a business that satisfies at least one (1) of the following criteria:

(1) The business is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).

(2) The business is a United States Department of Defense contractor.

(3) 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.

(d) This subsection applies to a taxpayer making a qualified investment in a business located in a qualified military base enhancement area established under IC 36-7-34-(2). To qualify for a credit under this chapter, the taxpayer's qualified investment must be in a business that satisfies at least one (1) of the following criteria:

(1) The business is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).

(2) 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.
the qualified military base (as defined in IC 36-7-34-3),
SECTION 6. IC 13-11-2-129.6, AS ADDED BY P.L.5-2005,
SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 129.6. "Military base", for purposes of IC 13-15-3-1.3, means a United States or an Indiana government military installation that:
(1) has an area of at least sixty thousand (60,000) acres and
(2) has an area of at least nine hundred (900) acres and serves as an urban training center for military units, civilian personnel, and first responders; or
(3) has an area of at least five thousand (5,000) acres and serves as a joint training center for active and reserve components of the armed forces of the United States.
SECTION 7. IC 34-6-2-82.6, AS ADDED BY P.L.5-2005,
SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 82.6. "Military base", for purposes of IC 34-30-21, means a United States or an Indiana government military installation that:
(1) has an area of at least sixty thousand (60,000) acres and
(2) has an area of at least nine hundred (900) acres and serves as an urban training center for military units, civilian personnel, and first responders; or
(3) has an area of at least five thousand (5,000) acres and serves as a joint training center for active and reserve components of the armed forces of the United States.
SECTION 8. IC 36-7-34-4, AS ADDED BY P.L.203-2005,
SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. A qualified military base enhancement area is established for each of the following:
(1) A technology park located within a radius of five (5) miles of a qualified military base. The geographic area of the qualified military base enhancement area established under this subdivision is the geographic area of the technology park.
(2) A county in which all or part of a qualified military base is located. The geographic area of a qualified military base enhancement area established under this subdivision is the geographic area of the county other than any area in which a technology park described in subdivision (1) is located.
(Reference is to EHB 1259 as printed February 24, 2006.)
Koch
KROOKS
CROOKS
HUME
House Conferees
Senate Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1102-1; filed March 13, 2006, at 2:33 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 1102 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 technical correction made under Senate Rule 33(e) adopted March 1, 2006.
Delete everything after the enacting clause and insert the following:
SECTION 1. IC 5-3-1-0.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.4. As used in this chapter, "newspaper" refers to a newspaper:
(1) that:
  (1) has at least fifty percent (50%) of all copies circulated paid for by subscribers or other purchasers at a rate that is not nominal; or
  (2) that:
    (A) is a daily, weekly, semweekly, or triweekly newspaper of general circulation;
    (B) has been entered, authorized, and accepted by the United States Postal Service as mailable matter of the periodicals class;
    (C) has at least fifty percent (50%) of all copies circulated paid for by subscribers or other purchasers at a rate that is not nominal; and
    (D) meets the greater of the following conditions:
      (i) The newspaper's paid circulation during the preceding year is equal to at least fifty percent (50%) of the paid circulation for the largest newspaper with a periodicals class permit located in the county in which the newspaper is published, based on the average paid or requested circulation for the preceding twelve (12) months reported in the newspaper's United States Postal Service Statement of Ownership published by the newspaper in October of each year or based on the newspaper's initial application for a permit from the United States Postal Service.
      (ii) The newspaper has an average daily paid circulation of one thousand five hundred (1,500) based on the average paid or requested circulation for the preceding twelve (12) months reported in the newspaper's United States Postal Service Statement of Ownership published by the newspaper in October of each year or based on the newspaper's initial application for a permit from the United States Postal Service.
Notwithstanding any other law, the department of local government finance may correct an error or omission described in subdivision (2) at any time. If an error or omission described in subdivision (2) occurs, the county auditor must publish, at the county's expense, a notice containing the correct tax rate, tax levy, or budget as proposed or fixed by the political subdivision.
SECTION 3. IC 5-11-10-1, AS AMENDED BY P.L.127-2005,
SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) This section applies to the state and its political subdivisions. However, this section does not apply to the following:
(1) The state universities.
(2) Ivy Tech Community College of Indiana.
(3) A municipality (as defined in IC 36-1-2-11).
(4) A county.
(5) An airport authority operating in a consolidated city.
(6) A capital improvements board of managers operating in a consolidated city.
(7) A board of directors of a public transportation corporation
operating in a consolidated city.
(8) A municipal corporation organized under IC 16-22-8-6.
(9) A public library.
(10) A library services authority.
(11) A hospital organized under IC 16-22 or a hospital organized under IC 16-23.
(12) A school corporation (as defined in IC 36-1-2-17).
(13) A regional water or sewer district organized under IC 13-26 or under IC 13-3-2 (before its repeal).
(14) A municipally owned utility (as defined in IC 8-1-2-1).
(15) A board of an airport authority under IC 8-22-3.
(16) A conservancy district.
(17) A board of aviation commissioners under IC 8-22-2.
(18) A public transportation corporation under IC 36-9-4.
(19) A commuter transportation district under IC 8-5-15.
(20) A solid waste management district established under IC 13-21 or IC 13-9-5 (before its repeal).
(22) A soil and water conservation district established under IC 14-32.
(23) The northwestern Indiana regional planning commission established by IC 36-7-7-6-3.
(No warrant or check shall be drawn by a disbursing officer in payment of any claim unless the same has been fully itemized and its correctness properly certified to by the claimant or some authorized person in the claimant's behalf, and filed and allowed as provided by law.
(c) The certificate provided for in subsection (b) is not required for:
(1) claims rendered by a public utility for electric, gas, steam, water, or telephone services, the charges for which are regulated by a governmental body;
(2) a warrant issued by the auditor of state under IC 4-13-2-7(b);
(3) a check issued by a special disbursing officer under IC 4-13-2-20(g); or
(4) a payment of fees under IC 36-7-11.2-49(b) or IC 36-7-11.3-43(b).
(d) The disbursing officer shall issue checks or warrants for all claims which meet all of the requirements of this section. The disbursing officer does not incur personal liability for disbursements:
(1) processed in accordance with this section; and
(2) for which funds are appropriated and available.
(e) The certificate provided for in subsection (c)(4) must be on a form prescribed by the state board of accounts.
SECTION 5. IC 5-11-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Every state, county, city, town, township, or school official, elective or appointive, who is the head of or in charge of any office, department, board, or commission of the state or of any county, city, town, or township, and every state, county, city, town, or township employee or agent who is the head of, or in charge of, or the executive officer of any department, bureau, board, or commission of the state, county, city, town, or township, and every executive officer by whatever title designated, who is in charge of any state educational institution or of any other state, county, or city institution, shall during the month of January of each year prepare, make, and sign a written or printed certified report, correctly and completely showing the names and business addresses of each and all officers, employees, and agents in their respective offices, departments, boards, commissions, and institutions, and the respective duties and compensation of each, and shall forthwith file said report in the office of the state examiner of the state board of accounts. However, no more than one (1) report covering the same officers, employees, and agents need be made from the state or any county, city, town, township, or school unit in any one year.
SECTION 6. IC 5-11-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) As used in this section, "official" includes the following:
(1) An elected official who is entitled to attend a conference under this section.
(2) An individual elected to an office who is entitled to attend a conference under this section.
(3) A deputy or an assistant to an elected official who is entitled to attend a conference under this section.
(b) The state board of accounts shall annually call a conference of each of the following:
(1) County auditors and auditors elect.
(2) County treasurers and treasurers elect.
(3) Circuit court clerks and circuit court clerks elect.
(each of the conferences called under subsection (b):
whenever in the judgment of the state examiner conferences are
(necessary).
(e) Whenever a conference is called by the state board of accounts
under this section, an elected official, at the direction of the state
examiner, may require the attendance of:
(1) each of the elected official's appointed and acting chief
deputies or chief assistants; and
(2) if the number of deputies or assistants employed:
(A) does not exceed three (3), one (1) of the elected official's
appointed and acting deputies or assistants; or
(B) exceeds three (3), two (2) of the elected official's duly
appointed and acting deputies or assistants.
(g) Each official representing a unit and attending any
conference under this section shall be allowed the following:
(1) A sum for mileage at a rate determined by the fiscal
body of the unit the official represents for each mile
terribly needed to go to and returning from the
conference by the most expeditious route. A sum for mileage at
a rate determined by the fiscal body of the unit the official
represents. Each official shall also be allowed while attending
a conference called under this section. Regardless of the
duration of the conference, only one (1) mileage
reimbursement shall be allowed to the official furnishing
the conveyance even if the official transports more than one (1)
person.
(2) An allowance for lodging for each night preceding
conference attendance in an amount equal to the single room
rate. However, lodging expense, in the case of a one (1) day
cconference, shall only be allowed for persons who reside fifty
(50) miles or farther from the conference location.
(3) Each official shall be reimbursed. Reimbursement of an
official, in an amount determined by the fiscal body of the unit
the official represents, for meals purchased while attending a
conference called under this section. Regardless of the duration
of the conference, only one (1) mileage reimbursement shall
be allowed to the official furnishing the conveyance although the
official transports more than one (1) person.
(h) The state board of accounts shall certify the number of days of
attendance and the mileage for each conference to each official
attending any conference under this section.
(i) All payments of mileage and lodging shall be made by the
proper disbursing officer in the manner provided by law on a duly
verified claim or voucher to which shall be attached the certificate of
the state board of accounts showing the number of days attended and
the number of miles traveled. All payments shall be made from the
general fund from any money not otherwise appropriated and without
any previous appropriation being made therefor.
(j) A claim for reimbursement under this section may not be
denied by the body responsible for the approval of claims if the
claim complies with IC 5-11-10-1.6 and this section.
tax levy of a political subdivision fixed under subsection (a) by filing an objection petition with the proper officers of the political subdivision not more than seven (7) days after the hearing. The objection petition must specifically identify the provisions of the budget, tax rate, and tax levy to which the taxpayers object.

(c) If a petition is filed under subsection (b), the fiscal body of the political subdivision shall adopt with its budget a finding concerning the objections in the petition and any testimony presented at the adoption hearing.

(d) This subsection does not apply to a school corporation. Each year at least two (2) days before the first meeting of the county board of tax adjustment held under IC 6-1.1-29-4, a political subdivision shall file with the county auditor:

(1) a statement of the tax rate and levy fixed by the political subdivision for the ensuing budget year;

(2) two (2) copies of the budget adopted by the political subdivision for the ensuing budget year; and

(3) two (2) copies of any findings adopted under subsection (c).

Each year the county auditor shall present these items to the county board of tax adjustment at the board's first meeting.

(e) In a consolidated city and county and in a second class city, the clerk of the fiscal body shall, notwithstanding subsection (d), file the adopted budget and tax ordinances with the county board of tax adjustment within two (2) days after the ordinances are signed by the executive, or within two (2) days after action is taken by the fiscal body to override a veto of the ordinances, whichever is later.

(f) If a fiscal body does not fix the budget, tax rate, and tax levy of the political subdivisions for the ensuing budget year as required under this section, the most recent annual appropriations and annual tax levy are continued for the ensuing budget year.

SECTION 9. 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, 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. However, if the department of local government finance determines that IC 5-3-1-2.3(b) applies to the tax rate, tax levy, or budget of the political subdivision, the maximum amount by which the department may increase the tax rate, tax levy, or budget is the amount originally fixed by the political subdivision, and not the amount that was incorrectly published or omitted in the notice described in IC 5-3-1-2.3(b).

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 two (2) weeks 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 response may include budget reductions, reallocation of levies, a revision in the amount of miscellaneous revenues, and further review of any other item about which, in the view of the political subdivision, the department is in error. The department of local government finance shall make reductions consider the adjustments 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 and shall deliver a final decision to the political subdivision.

(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 funds 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 first ten (10) taxpayers whose names appear on a petition filed under section 13 of this chapter; 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 acts under an appeal initiated by taxpayers under section 13 of this chapter, a taxpayer who signed the petition under that section.

(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 10. IC 6-1.1-22-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: 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 in the following in the tax 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; and
   (D) the dollar amount of each special assessment 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. When 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) A county may incur:

(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).

SECTION 11. IC 6-1.1-22-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 11. A holder of a lien of record on any real property on which taxes are delinquent may pay the delinquent taxes, penalties, and cost. The amount so paid is an additional lien on the real property in favor of the lienholder and is collectible, with interest at the rate percent (0%) per annum from the time of payment, in the same manner as the original lien.

SECTION 12. IC 6-1.1-22-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 13.5. (a) A political
subdivision acquires a lien on each tract of real property for:
(1) all special assessments levied against the tract, including
the land under an improvement or appurtenance described
in IC 6-1.1-2-4(b); and
(2) all subsequent penalties and costs resulting from the
special assessments.

The lien attaches on the installment due date of the year for
which the special assessments are certified for collection. The lien
is not affected by any sale or transfer of the tract, including
the land under an improvement or appurtenance described
in IC 6-1.1-2-4(b), and including the sale, exchange, or lease of
the tract under IC 36-1-11.

(b) The lien of the political subdivision for special assessments,
penalties, and costs continues for ten (10) years from May 10 of
the year in which special assessments first become due. However,
if any proceeding is instituted to enforce the lien within the ten (10)
year period, the limitation is extended, if necessary, to permit
the termination of the proceeding.

(c) The lien of the state inures to political subdivisions that
impose the special assessments on which the lien is based, and the
lien is superior to all other liens except the lien of the state for
property taxes.

(d) A political subdivision described in subsection (c) may
institute a civil suit against a person or an entity liable for
delinquent special assessments. The political subdivision may,
after obtaining a judgment, collect:
(1) delinquent special assessments;
(2) penalties due to the delinquency; and
(3) costs and expenses incurred in collecting the delinquent
special assessments, including reasonable attorney’s fees
and court costs approved by a court with jurisdiction.

SECTION 13. IC 6-1.1-24-1 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) Or
to July 1 of each year or fifty-one (51) days after the
tax payment due date, the county treasurer (or county executive, in
the case of property described in subdivision (2)) shall certify to the
county auditor a list of real property on which any of the following
exist:

(1) In the case of real property other than real property
described in subdivision (2), any property taxes or special
assessments certified to the county auditor for collection by
the county treasurer from the prior year's spring installment or
before are delinquent as determined under IC 6-1.3-37.10.

(2) In the case of real property for which a county executive
has certified to the county auditor that the real property is:
(A) vacant; or
(B) abandoned;
any property taxes or special assessments from the prior
year's fall installment or before that are delinquent as
determined under IC 6-1.3-37.10. The county executive
must make a certification under this subdivision not later
than sixty-one (61) days before the earliest date on which
application for judgment and order for sale may be made.

(3) Any unpaid costs are due under section 2(b) of this chapter
from a prior tax sale.

(b) The county auditor shall maintain a list of all real property
eligible for sale. Unless the taxpayer pays to the county treasurer the
amounts in subsection (a), the taxpayer's property shall remain on the
list. The list must:
(1) describe the real property by parcel number and common
address, if any;
(2) for a tract or item of real property with a single owner,
indicate the name of the owner; and
(3) for a tract or item with multiple owners, indicate the name
of at least one (1) of the owners.

(c) Except as otherwise provided in this chapter, the real property
so listed is eligible for sale in the manner prescribed in this chapter.

(d) Not later than fifteen (15) days after the date of the county
treasurer's certification under subsection (a), the county auditor shall
mail by certified mail a copy of the list described in subsection (b) to
each mortgagee who requests from the county auditor by certified
mail a copy of the list. Failure of the county auditor to mail the list
under this subsection does not invalidate an otherwise valid sale.

SECTION 14. IC 6-1.1-24-1.5 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1.5. (a) This
section applies to a county having a consolidated city.

As used in this chapter and IC 6-1.1-25, "county executive"
means the following:

(1) In a county not containing a consolidated city, the
county executive or the county executive’s designee.

(2) In a county containing a consolidated city, the executive
of the consolidated city.

(b) The metropolitan development commission shall county
executive may designate the real property on the list prepared under
section 4.5(b) of this chapter that is eligible for listing on the list
prepared under subsection (d); (c).

(c) The commission may designate real property for inclusion on
the list if the commission finds that the real property:

(i) is an unsafe premises as determined under (IC 36-7-9) and
is subject to:
(A) an order issued under IC 36-7-9; or
(B) a notice of violation issued by the county's health and
hospital corporation under IC 16-22-8.
(ii) is not being used as a residence or for a business enterprise;
and
(iii) is suitable for rehabilitation or development that will benefit
or serve low or moderate income families.
(d) (c) The commission county executive shall prepare a list of
properties designated under subsection (b) and certify the list to the
county auditor no later than sixty-one (61) days prior to the earliest
date on which application for judgment and order for sale may be
made.

(e) Upon receiving the list described in subsection (d); (c), the
county auditor shall:
(1) prepare a list of the properties certified by the commission;
and
(2) delete any property described in that list from the delinquent
tax list prepared under section 1 of this chapter.

(f) If the county auditor receives an owner's affidavit under section
4-1 of this chapter, the auditor shall, upon determining that the
information contained in the affidavit is correct, remove the property
from the list prepared under subsection (e) and restore the property to
the list prepared under section 4 of this chapter.

SECTION 15. IC 6-1.1-24-2 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) In
addition to the delinquency list required under section 1 of this
chapter, each county auditor shall prepare a notice. The notice shall
contain the following:

(1) A list of tracts or real property eligible for sale under this
chapter.
(2) A statement that the tracts or real property included in the
list will be sold at public auction to the highest bidder, subject
to the right of redemption.

(3) A statement that the tracts or real property will not be sold
for an amount which is less than the sum of:
(A) the delinquent taxes and special assessments on each
tract or item of real property;
(B) the taxes and special assessments on each tract or item of
real property that are due and payable in the year of the sale,
whether or not they are delinquent;
(C) all penalties due on the delinquencies;
(D) an amount prescribed by the county auditor that equals
the sum of:
(i) the greater of twenty-five dollars ($25) for or postage
and publication costs; and
(ii) any other actual costs incurred by the county that are
directly attributable to the tax sale; and
(E) any unpaid costs due under subsection (b) from a prior
tax sale.

(4) A statement that a person redeeming each tract or item of
real property after the sale must pay:
(A) one hundred ten percent (110%) of the amount of the
minimum bid for which the tract or item of real property was
offered at the time of sale if the tract or item of real property
is redeemed not more than six (6) months after the date of
sale;
(B) one hundred fifteen percent (115%) of the amount of the minimum bid for which the tract or item of real property was offered at the time of sale if the tract or item of real property is redeemed more than six (6) months after the date of sale;  
(C) the amount by which the purchase price exceeds the minimum bid on the tract or item of real property plus ten percent (10%) per annum on the amount by which the purchase price exceeds the minimum bid; and  
(D) all taxes and special assessments on the tract or item of real property paid by the purchaser after the tax sale plus interest at the rate of ten percent (10%) per annum on the amount of taxes and special assessments paid by the purchaser on the redeemed property.

(5) A statement for informational purposes only, of the location of each tract or item of real property by key number, if any, and street address, if any, or a common description of the property other than a legal description. The township assessor, upon written request from the county auditor, shall provide the information to be in the notice required by this subsection. A misstatement in the key number or street address does not invalidate an otherwise valid sale.

(6) A statement that the county does not warrant the accuracy of the street address or common description of the property.

(7) A statement indicating:
(A) the name of the owner of each tract or item of real property with a single owner; or  
(B) the name of at least one (1) of the owners of each tract or item of real property with multiple owners.

(8) A statement of the procedure to be followed for obtaining or objecting to a judgment and order of sale, that must include the following:
(A) a statement:
   (i) that the county auditor and county treasurer will apply on or after a date designated in the notice for a court judgment against the tracts or real property for an amount that is not less than the amount set under subdivision (3), and for an order to sell the tracts or real property at public auction to the highest bidder, subject to the right of redemption; and
   (ii) indicating the date when the period of redemption specified in IC 6-1.1-25-4 will expire.
(B) a statement that any defense to the application for judgment must be filed with the court before the date designated as the earliest date on which the application for judgment may be filed.
(C) a statement that the court will set a date for a hearing at least seven (7) days before the advertised date and that the court will determine any defenses to the application for judgment at the hearing.

(9) A statement that the sale will be conducted at a place designated in the notice and that the sale will continue until all tracts and real property have been offered for sale.

(10) A statement that the sale will take place at the times and dates designated in the notice. Except as provided in section 5.5 of this chapter, the sale must take place on or after August 1 and before November 1 of each year.

(11) A statement that a person redeeming each tract or item after the sale must pay the costs described in IC 6-1.1-25-2(e).

(12) If a county auditor and county treasurer have entered into an agreement under IC 6-1.1-25-4.7, a statement that the county auditor will perform the duties of the notification and title search under IC 6-1.1-25-4.5 and the notification and petition to the court for the tax deed under IC 6-1.1-25-4.6.

(13) A statement that, if the tract or item of real property is sold for an amount more than the minimum bid and the property is not redeemed, the owner of record of the tract or item of real property who is divested of ownership at the time the tax deed is issued may have a right to the tax sale surplus.

(14) If a determination has been made under subsection (d), a statement that tracts or items will be sold together.

(b) If within sixty (60) days before the date of the tax sale the county incurs costs set under subsection (a)(3)(D) and those costs are not paid, the county auditor shall enter the amount of costs that remain unpaid upon the tax duplicate of the property for which the costs were set. The county treasurer shall mail notice of unpaid costs entered upon a tax duplicate under this subsection to the owner of the property identified in the tax duplicate.

(c) The amount of unpaid costs entered upon a tax duplicate under subsection (b) must be paid no later than the date upon which the next installment of real estate taxes for the property is due. Unpaid costs entered upon a tax duplicate under subsection (b) are a lien against the property described in the tax duplicate, and amounts remaining unpaid on the date the next installment of real estate taxes is due may be collected in the same manner that delinquent property taxes are collected.

(d) The county auditor and county treasurer may establish the condition that a tract or item will be sold and may be redeemed under this chapter only if the tract or item is sold or redeemed together with one (1) or more other tracts or items. Property may be sold together only if the tract or item is owned by the same person.

SECTION 16. IC 6-1.1-24-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2.2. (a) This section applies to a county having a consolidated city.

(b) Whenever a notice required under section 2 of this chapter includes real property on the list prepared under section 1.5(e) of this chapter, the notice must also contain a statement that:

(1) the property is on the alternate list prepared under section 1.5(e) section 1(a)(2) or 1.5(d) of this chapter;
(2) the owner of the property may file an affidavit with the county auditor no later than twenty (20) days following the date of the notice indicating that the residential structure located on the property is:
(A) habitable under state law and any ordinance of the political subdivision where the property is located; and
(B) has been occupied as a permanent residence for the six (6) month period preceding the date of the notice;
(3) if the auditor determines that the statements made in the affidavit are correct, the auditor will remove the property from the list prepared under section 1.5(e) of this chapter and restore the parcel to the delinquent tax list prepared under section 1 of this chapter;
(4) (2) if the property is not redeemed within one hundred twenty (120) days after the date of sale, the county auditor shall execute and deliver a deed for the property to the purchaser or purchaser’s assignee; and
(5) (3) if the property is offered for sale and a bid is not received for at least the amount required under section 5 of this chapter, the county auditor may execute and deliver a deed for the property to the purchasing agency under IC 36-7-17, county executive, subject to IC 6-1.1-25.

SECTION 17. IC 6-1.1-24-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) When real property is eligible for sale under this chapter, the county auditor shall post a copy of the notice required by sections 2 and 2.2 of this chapter at a public place of posting in the county courthouse or in another public building at least twenty-one (21) days before the earliest date of application for judgment. In addition, the county auditor shall, in accordance with IC 5-3-1-4, publish the notice required in sections 2 and 2.2 of this chapter once each week for three (3) consecutive weeks before the earliest date on which the application for judgment may be made. The expenses of this publication shall be paid out of the county general fund without prior appropriation.

(b) At least twenty-one (21) days before the application for judgment is made, the county auditor shall mail a copy of the notice required by sections 2 and 2.2 of this chapter by certified mail, return receipt requested, to any mortgagee who annually requests, by certified mail, a copy of the notice. However, the failure of the county auditor to mail this notice or its nondelivery does not affect the validity of the judgment and order.

(c) The notices mailed under this section and the advertisement published under section 4(b) of this chapter are considered sufficient notice of the intended application for judgment and the sale of real property under the order of the court.

SECTION 18. IC 6-1.1-24-4 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. (a) Not less than twenty-one (21) days before the earliest date on which the application for judgment and order for sale of real property eligible for sale may be made, the county auditor shall send a notice of the sale by certified mail to:

(1) the owner of record of real property with a single owner; or
(2) to at least one (1) of the owners of real property with multiple owners;

at the last address of the owner for the property as indicated in the records of the county auditor. The county auditor shall prepare the notice in the form prescribed by the state board of accounts. The notice must set forth the key number, if any, of the real property and a street address, if any, or other common description of the property other than a legal description. The notice must include the statement set forth in section 2(a)(4) of this chapter. The county auditor must present proof of this mailing to the court along with the application for judgment and order for sale. Failure by an owner to receive or accept the notice required by this section does not affect the validity of the judgment and order. The owner of real property shall notify the county auditor of the owner’s correct address. The notice required under this section is considered sufficient if the notice is mailed to the address required by this section.

(b) This subsection applies to a county having a consolidated city. In addition to the notice required under subsection (a) for real property on the list prepared under section 1.5 or section 1(a)(2) or 1.5(d) of this chapter, the county auditor shall prepare and mail the notice required under section 2.2 of this chapter no later than August 15 in the year in which the property is to be sold under this chapter.

(c) On or before the day of sale, the county auditor shall list, on the tax sale record required by IC 6-1.1-25-8, all properties that will be offered for sale.

SECTION 19. IC 6-1.1-24-4.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4.6. (a) On the day on which the application for judgment and order for sale is made, the county treasurer shall report to the county auditor all of the tracts and real property listed in the notice required by section 2 of this chapter upon which all delinquent taxes and special assessments, all penalties due on the delinquencies, any unpaid costs due from a prior tax sale, and the amount due under section 2(a)(3)(D) of this chapter have been paid up to that time. The county auditor, assisted by the county treasurer, shall compare and correct the list, removing tracts and real property for which all delinquencies have been paid, and shall make and subscribe an affidavit in substantially the following form:

State of Indiana

County of ____________

I, ________________, treasurer of the county of ____________, and I, ________________, auditor of the county of ____________, do solemnly affirm that the foregoing is a true and correct list of the real property within the county of ____________ upon which have remained delinquent uncalled taxes, special assessments, penalties and costs, as required by law for the time periods set forth, to the best of my knowledge and belief.

County Auditor

Dated ______________

County Treasurer

I, ________________, auditor of the county of ____________, do solemnly affirm that notice of the application for judgment and order for sale was mailed via certified mail to the owners on the foregoing list, and publication made, as required by law.

County Auditor

Dated ______________

(b) Application for judgment and order for sale shall be made as one (1) cause of action to any court of competent jurisdiction jointly by the county treasurer and county auditor. The application shall include the names of at least one (1) of the owners of each tract or item of real property, the dates of mailing of the notice required by sections 2 and 2.2 of this chapter, the dates of publication required by section 3 of this chapter, and the affidavit and corrected list as provided in subsection (a).

(c) Any defense to the application for judgment and order of sale shall be filed with the court on or before the earliest date on which the application may be made as set forth in the notice required under section 2 of this chapter.

SECTION 20. IC 6-1.1-24-4.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4.7. (a) No later than fifteen (15) days before the advertised date of the tax sale, the court shall examine the list of tracts and real property as provided under section 4.6 of this chapter. No later than three (3) days before the advertised date of the tax sale, the court shall enter judgment for those taxes, special assessments, penalties, and costs that appear to be due. This judgment is considered as a judgment against each tract or item of real property for each kind of tax, special assessment, penalty, or cost included in it. The affidavit provided under section 4.6 of this chapter is prima facie evidence of delinquency for purposes of proceedings under this section. The court shall also direct the clerk to prepare and enter an order for the sale of those tracts and real property against which judgment is entered.

(b) Not later than seven (7) days before the advertised date of the tax sale, the court shall conduct a hearing. At the hearing, the court shall hear any defense offered by any person interested in any of the tracts or items of real property to the entry of judgment against them, hear and determine the matter in a summary manner, without pleading and enter its judgment. The court shall enter a judgment under this subsection not later than three (3) days before the advertised date of the tax sale. The objection must be in writing, and no person may offer any defense unless the writing specifying the objection is accompanied by an original or a duplicate tax receipt or other supporting documentation. At least seven (7) days before the date set for the hearing, notice of the date, time, and place of the hearing shall be provided by the court to any person filing a defense to the application for judgment and order of sale.

(c) If judgment is entered in favor of the respondent under these proceedings or if judgment is not entered for any particular tract, part of a tract, or items of real property because of an unresolved objection made under subsection (b), the court shall remove those tracts, parts of tracts, or items of real property from the list of tracts and real property provided under section 4.6 of this chapter.

(d) A judgment and order for sale shall contain the final listing of affected properties and the name of at least one (1) of the owners of each tract or item of real property, and shall substantially follow this form:

"Whereas, notice has been given of the intended application for a judgment against these tracts and real property, and no sufficient defense has been made or cause has been shown why judgment should not be entered against these tracts for taxes, and real property special assessments, penalties, and costs due and unpaid on them, therefore it is considered by the court that judgment is hereby entered against the below listed tracts and real property in favor of the state of Indiana for the amount of taxes, special assessments, penalties, and costs due severally on them; and it is ordered by the court that the several tracts or items of real property be sold as the law directs. Payments for taxes, special assessments, penalties, and costs made after this judgment but before the sale shall reduce the judgment accordingly."

(e) The order of the court constitutes the list of tracts and real property that shall be offered for sale under section 5 of this chapter.

(f) The court that enters judgment under this section shall retain exclusive continuing supervisory jurisdiction over all matters and claims relating to the tax sale.

(g) No error or informality in the proceedings of any of the officers connected with the assessment, levying, or collection of the taxes that does not affect the substantial justice of the tax itself shall invalidate or in any manner affect the tax or the assessment, levying, or collection of the tax.

(h) Any irregularity, informality, omission, or defective act of one (1) or more officers connected with the assessment or levying of the taxes may be, in the discretion of the court, corrected, supplied, and made to conform to law by the court, or by the officer (in the presence of the court).

SECTION 21. IC 6-1.1-24-5 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. (a) When a tract or an item of real property is subject to sale under this chapter, it must be sold in compliance with this section.

(b) The sale must:

(1) be held at the times and place stated in the notice of sale; and
(2) except as provided in section 5.5 of this chapter, not extend beyond October 31 of the year of sale, one hundred seventy-one (171) days after the list containing the tract or item of real property is certified to the county auditor.

(c) A tract or an item of real property may not be sold under this chapter to collect:

(1) delinquent personal property taxes; or
(2) taxes or special assessments which are chargeable to other real property.

(d) A tract or an item of real property may not be sold under this chapter if all the delinquent taxes, penalties, and special assessments on the tract or an item of real property and the amount prescribed by section 2(a)(3)(D) of this chapter, reflecting the costs incurred by the county due to the sale, are paid before the time of sale.

(e) The county treasurer shall sell the tract or real property, subject to the right of redemption, to the highest bidder at public auction. However, a tract or an item of real property may not be sold for an amount which is less than the sum of:

(1) the delinquent taxes and special assessments on each tract or item of real property;
(2) the taxes and special assessments on each tract or item of real property that are due and payable in the year of the sale, regardless of whether the taxes and special assessments are delinquent;
(3) all penalties which are due on the delinquencies;
(4) the amount prescribed by section 2(a)(3)(D) of this chapter reflecting the costs incurred by the county due to the sale;
(5) any unpaid costs which are due under section 2(b) of this chapter from a prior tax sale; and
(6) other reasonable expenses of collection, including title search expenses, uniform commercial code expenses, and reasonable attorney's fees incurred by the date of the sale.

(f) For purposes of the sale, it is not necessary for the county treasurer to first attempt to collect the real property taxes or special assessments out of the personal property of the owner of the tract or real property.

(g) The county auditor shall serve as the clerk of the sale.

(h) Real property certified to the county auditor under section 1(2) of this chapter must be offered for sale in a different phase of the tax sale or on a different day of the tax sale than the phase or day during which other real property is offered for sale.

SECTION 22. IC 6-1-1-24.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5.3. (a) This section applies to the following:

(1) A person who:
(A) owns a fee interest, a life estate interest, or the equitable interest of a contract purchaser in an unsafe building or unsafe premises in the county in which a sale is held under this chapter; and
(B) is subject to an order issued under IC 36-7-9-5(a)(2), IC 36-7-9-5(a)(3), IC 36-7-9-5(a)(4), or IC 36-7-9-5(a)(5) regarding which the conditions set forth in IC 36-7-9-10(a)(1) through IC 36-7-9-10(a)(4) exist.

(2) A person who:
(A) owns a fee interest, a life estate interest, or the equitable interest of a contract purchaser in an unsafe building or unsafe premises in the county in which a sale is held under this chapter; and
(B) is subject to an order issued under IC 36-7-9-5(a), other than an order issued under IC 36-7-9-5(a)(2), IC 36-7-9-5(a)(3), IC 36-7-9-5(a)(4), or IC 36-7-9-5(a)(5), regarding which the conditions set forth in IC 36-7-9-10(b)(1) through IC 36-7-9-10(b)(4) exist.

(3) A person who is the defendant in a court action brought under IC 36-7-9-18, IC 36-7-9-19, IC 36-7-9-20, IC 36-7-9-21, or IC 36-7-9-22 in the county in which a sale is held under this chapter that has resulted in a judgment in favor of the plaintiff and the unsafe condition that caused the action to be brought has not been corrected.

(4) A person who has any of the following relationships to a person, partnership, corporation, or legal entity described in subdivisions (1), (2), or (3):
(A) A partner of a partnership.
(B) An officer or majority stockholder of a corporation.
(C) The person who directs the activities or has a majority ownership in a legal entity other than a partnership or corporation.

(5) A person who, in the county in which a sale is held under this chapter, owes:
(A) delinquent taxes;
(B) special assessments;
(C) penalties;
(D) interest; or
(E) costs directly attributable to a prior tax sale;

on a tract or an item of real property listed under section 1 of this chapter.

(6) A person who is an agent of the person described in subdivision (5); this subsection.

(b) A person subject to this section may not purchase a tract offered for sale under section 5 or 5.5.6.1 of this chapter. However, his section does not prohibit a person from bidding on a tract that is owned by the person and offered for sale under section 5 of this chapter.

(c) The county treasurer shall require each person who will be bidding at the tax sale to sign a statement in a form substantially similar to the following:

"Indiana law prohibits a person who owes delinquent taxes, special assessments, penalties, interest, or costs directly attributable to a prior tax sale from purchasing tracts or items of real property at a tax sale. I hereby affirm under the penalties for perjury that I do not owe delinquent taxes, special assessments, penalties, interest, costs directly attributable to a prior tax sale, amounts from a final adjudication in favor of a political subdivision in this county, any civil penalties imposed for the violation of a building code or ordinance of this county, or any civil penalties imposed by a health department in this county. Further, I hereby acknowledge that any successful bid I make in violation of this statement is subject to forfeiture. In the event of forfeiture, the amount of my bid shall be applied to the delinquent taxes, special assessments, penalties, interest, costs, judgments, or civil penalties I owe, and a certificate will be issued to the county executive."

(d) If a person purchases a tract that the person was not eligible to purchase under this section, the sale of the property is void; subject to forfeiture. If the county treasurer determines or is notified not more than six (6) months after the date of the sale that the sale of the property should be forfeited, the county treasurer shall:

(1) notify the person in writing that the sale is subject to forfeiture if the person does not pay the amounts that the person owes within thirty (30) days of the notice; and
(2) if the person does not pay the amounts that the person owes within thirty (30) days after the notice, apply the surplus amount of the person's bid to the person's delinquent taxes, special assessments, penalties, and interest;

(3) remit the amounts owed from a final adjudication or civil penalties in favor of a political subdivision to the appropriate political subdivision; and offer the real property for sale again; and

(4) notify the county auditor that the sale has been forfeited. Upon being notified that a sale has been forfeited, the county auditor shall issue a certificate to the county executive under section 6 of this chapter.

(e) A county treasurer may decline to forfeit a sale under this section because of inadvertence or mistake, lack of actual knowledge by the bidder, substantial harm to other parties with interests in the tract or item of real property, or other substantial reasons. If the treasurer declines to forfeit a sale, the treasurer shall:

(1) prepare a written statement explaining the reasons for...
and the date, time, and place for the public sale of the certificates of sale.

SECTION 23. IC 6-1.1-24-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. (a) When a tract or an item of real property is offered for sale under this chapter for two (2) consecutive tax sales and an amount is not received equal to or in excess of the minimum sale price prescribed in section 5(e) of this chapter, the county executive acquires a lien in the amount of the minimum sale price. This lien attaches on the day after the last date on which the tract or item was offered for sale. On the second time:

(b) When a county executive acquires a lien under this section, the county auditor shall issue a tax sale certificate to the county executive in the manner provided in section 9 of this chapter. The county auditor shall date the certificate the day that the county executive acquires the lien. When a county executive acquires a certificate under this section, the county executive has the same rights as a purchaser. However, the county executive may hold the certificate for the taxing units described in subsection (c).

(c) When a lien is acquired by a county executive under this section, no money shall be paid by the county executive. However, each of the taxing units having an interest in the taxes on the tract shall be charged with the full amount of all delinquent taxes due them.

SECTION 24. IC 6-1.1-24-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6.1. (a) The county commissioners executive may:

1. by resolution, identify properties:
   A. that are described in section 6.7(a) of this chapter; and
   B. concerning which the county commissioners desire executive desires to offer to the public the certificates of sale acquired by the county executive under section 6 of this chapter;
2. publish notice in accordance with IC 5-3-1 of the date, time, and place for a public sale of the certificates of sale that is not earlier than ninety (90) days after the last date the notice is published; and
3. sell each certificate of sale covered by the resolution for a price that:
   A. is less than the minimum sale price prescribed by section 5(e) of this chapter; and
   B. includes any costs to the county executive directly attributable to the sale of the certificate of sale.

(b) Notice of the list of properties prepared under subsection (a) and the date, time, and place for the public sale of the certificates of sale shall be published in accordance with IC 5-3-1. The notice must:

1. include a description of the property by parcel number and common address;
2. specify that the county commissioners executive will accept bids for the certificates of sale for the price referred to in subsection (a)(3);
3. specify the minimum bid for each parcel;
4. include a statement that a person redeeming each tract or item of real property after the sale of the certificate must pay:
   A. the amount of the minimum bid under section 5(e) of this chapter for which the tract or item of real property was last offered for sale;
   B. ten percent (10%) of the amount for which the certificate is sold;
   C. the attorney's fees and costs of giving notice under IC 6-1.1-25-4.5;
   D. the costs of a title search or of examining and updating the abstract of title for the tract or item of real property; and
   E. all taxes and special assessments on the tract or item of real property paid by the purchaser after the sale of the certificate plus interest at the rate of ten percent (10%) per annum on the amount of taxes and special assessments paid by the purchaser on the redeemed property; and
5. include a statement that, if the certificate is sold for an amount more than the minimum bid under section 5(e) of this chapter for which the tract or item of real property was last offered for sale and the property is not redeemed, the owner of record of the tract or item of real property who is divested of ownership at the time the tax deed is issued may have a right to the tax sale surplus.

SECTION 25. IC 6-1.1-24-6.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6.3. (a) The sale of certificates of sale under this chapter must be held at the time and place stated in the notice of sale.

(b) A certificate of sale may not be sold under this chapter if the following are paid before the time of sale:

1. All the delinquent taxes, penalties, and special assessments on the tract or an item of real property.
2. The amount prescribed by section 2(a)(3)(D) of this chapter, reflecting the costs incurred by the county due to the sale.

(c) The county commissioners executive shall sell the certificate of sale, subject to the right of redemption, to the highest bidder at public auction.

(d) The county auditor shall serve as the clerk of the sale.

SECTION 26. IC 6-1.1-24-6.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6.7. (a) After each tax sale conducted under this chapter, the county auditor shall prepare and deliver to the county commissioners a list of all properties:

1. that have been offered for sale in two (2) consecutive tax sales;
2. that have not received a bid for at least the amount required under section 5 of this chapter;
3. that are not subject to the provisions of section 6-5 of this chapter;
4. on which the county has acquired a lien under section 6 of this chapter; and
5. for which the county is eligible to take title.

(b) The county commissioners shall execute may:

1. by resolution, identify the property described under subsection (a) section 6 of this chapter that the county commissioners desire executive desires to transfer to a nonprofit corporation for use for the public good and
2. set a date, time, and place for a public hearing to consider the transfer of the property to a nonprofit corporation.

(c) Notice of the list prepared property identified under subsection (b) and the date, time, and place for the hearing on the proposed transfer of the property on the list shall be published in accordance with IC 5-3-1. The notice must include a description of the property by:

1. legal description; and
2. parcel number or street address, or both.

The notice must specify that the county commissioners executive will accept applications submitted by nonprofit corporations as provided in subsection (d) and hear any opposition to a proposed transfer.

(d) After the hearing set under subsection (b); the county commissioners executive shall by resolution make a final determination concerning:

1. the properties that are to be transferred to a nonprofit corporation;
2. the nonprofit corporation to which each property is to be transferred; and
3. the terms and conditions of the transfer.

(e) This subsection applies only to a county having a consolidated city. The resolution of the county commissioners prepared under subsection (d) shall be forwarded to the county executive for approval. The county executive may remove any properties from the list of properties to be transferred that is prepared under subsection (d). The final list of properties to be transferred to nonprofit corporations shall be approved by the county executive and returned to the county commissioners executive.

(f) To be eligible to receive property under this section, a nonprofit corporation must file an application with the county commissioners executive. The application must state the property that the corporation desires to acquire, the use to be made of the property, and the time period anticipated for implementation of the use. The application must be accompanied by documentation...
verifying the nonprofit status of the corporation and be signed by an
officer of the corporation. If more than one (1) application for a single
property is filed, the county commissioners executive shall determine
which application is to be accepted based on the benefit to be
provided to the public and the neighborhood and the suitability of the
stated use for the property and the surrounding area.
(2)(d) After the hearing set under subsection (2)(a) and the final
determination of properties to be transferred under subsection (2)(c),
whichever is applicable, the county commissioners executive, on behalf of the county, shall cause all delinquent taxes, special assessments, penalties, interest, and costs of sale to be
removed from the tax duplicate and the county auditor to prepare a
deed transferring the property to the nonprofit corporation. The deed
shall provide for:
(1) the use to be made of the property;
(2) the time within which the use must be implemented and
maintained;
(3) any other term and conditions that are established by the
county commissioners executive; and
(4) the reversion of the property to the county executive if the
grantee nonprofit corporation fails to comply with the terms and
conditions.

If the grantee nonprofit corporation fails to comply with the terms and
conditions of the transfer and title to the property reverts to the county
executive, the property may be retained by the county executive or
disposed of under any of the provisions of this chapter or IC 6-1.1-24,
or both.

SECTI ON 27. IC 6-1.1-25-3 IS AMEND ED TO READ AS
FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) Except
as provided in subsection (b), when real property is redeemed and
the certificate of sale is surrendered to the county auditor, the auditor
shall issue a warrant to the
(1) purchaser or
(2) purchaser's assignee or
(3) purchaser of the certificate of sale under IC 6-1.1-24;
in an amount equal to the amount received by the county treasurer for
redemption.

(b) When real property sold under IC 6-1.1-24-6.1 is redeemed and
the certificate of sale is surrendered to the county auditor, the
auditor shall issue a warrant to the purchaser of the certificate of sale or the purchaser's assignee in an amount equal to:
(1) the amount received by the county treasurer for
redemption; minus
(2) if the certificate of sale was sold for less than the
minimum bid under IC 6-1.1-24-5(e), an amount equal to
the difference between the minimum bid under IC 6-1.1-24-5(e) and
the amount for which the certificate was sold.

(c) The county auditor shall indorse the certificate and preserve it
as a public record. If a certificate of sale is lost and the auditor is
satisfied that the certificate did exist, the county auditor may make
payment in the manner provided in this section.

SECTI ON 28. IC 6-1.1-25-4 IS AMEND ED TO READ AS
FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. (a) The
period for redemption of real property sold under IC 6-1.1-24 is:
(1) one (1) year after the date of sale;
(2) one hundred twenty (120) days after the date of sale to a
purchasing agency qualified under IC 36-7-17; or
(3) one hundred twenty (120) days after the date of sale of real
property on the list prepared under IC 6-1.1-24-1(a)(2) or
IC 6-1.1-24-1.5 or
(4) one hundred twenty (120) days after the date of sale under
IC 6-1.1-24-5(b).

(b) The period for redemption of real property:
(1) on which the county executive acquires a lien under
IC 6-1.1-24-6; and
(2) for which the certificate of sale is not sold under
IC 6-1.1-24-6.1;
is one hundred twenty (120) days after the date the county executive
acquires the lien under IC 6-1.1-24-6.

(c) The period for redemption of real property:
(1) on which the county executive acquires a lien under
IC 6-1.1-24-6; and
(2) for which the certificate of sale is sold under IC 6-1.1-24;
is one hundred twenty (120) days after the date of sale of the
certificate of sale under IC 6-1.1-24.

(d) When a deed for real property is executed under this chapter, the
county auditor shall cancel the certificate of sale and file the
canceled certificate in the office of the county auditor. If real property
that appears on the list prepared under IC 6-1.1-24-1.5 is offered for
sale and an amount that is at least equal to the minimum sale price
required under IC 6-1.1-24-5(e) is not received, the county auditor
shall issue a deed to the real property, in the manner provided in
IC 6-1.1-24-6.5, subject to this chapter.

(e) When a deed is issued to a county executive under this chapter, the
taxes and special assessments for which the real property was
offered for sale, and all subsequent taxes, special assessments,
interest, penalties, and cost of sale shall be removed from the tax
duplicate in the same manner that taxes are removed by certificate of
error.

(f) A tax deed executed under this chapter vests in the grantee an
estate in fee simple absolute, free and clear of all liens and
cumbrances created or suffered before or after the tax sale except
those liens granted priority under federal law and the lien of the state
or a political subdivision for taxes and special assessments which
acquire subsequent to the sale and which are not removed under
subsection (e). However, the estate is subject to:
(1) all easements, covenants, declarations, and other deed
restrictions shown by public records;
(2) laws, ordinances, and regulations concerning governmental
police powers, including zoning, building, land use,
improvements on the land, land division, and environmental
protection; and
(3) liens and encumbrances created or suffered by the grantee.

(g) A tax deed executed under this chapter is prima facie evidence of:
(1) the regularity of the sale of the real property described in the
deed;
(2) the regularity of all proper proceedings; and
(3) valid title in fee simple in the grantees of the deed.

(h) A county auditor is not required to execute a deed to the county
executive under this chapter if the county executive determines that
the property involved contains hazardous waste or another
environmental hazard for which the cost of abatement or alleviation
will exceed the fair market value of the property. The county
executive may enter the property to conduct environmental
investigations.

(i) If the county executive makes the determination under
subsection (h) as to any interest in an oil or gas lease or separate
mineral rights, the county treasurer shall certify all delinquent taxes,
interest, penalties, and costs assessed under IC 6-1.1-24 to the clerk,
following the procedures in IC 6-1.1-23-9. After the date of the
county treasurer's certification, the certified amount is subject to
collection as delinquent personal property taxes under IC 6-1.1-23.
Notwithstanding IC 6-1.1-4-12.4 and IC 6-1.1-4-12.6, the assessed
value of such an interest shall be zero (0) until production commences.

(j) When a deed is issued to a purchaser of a certificate of sale sold
under IC 6-1.1-24-6.1, the county auditor shall, in the same manner
that taxes are removed by certificate of error, remove from the tax
duplicate the taxes, special assessments, interest, penalties, and costs
remaining due as the difference between the amount of the last
minimum bid under IC 6-1.1-24-5(e) and the amount paid for the
certificate of sale.

SECTION 29. IC 6-1.1-25-4.5 IS AMEND ED TO READ AS
FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4.5. (a) Except
as provided in subsection (d), a purchaser or the purchaser's assignee
is entitled to a tax deed to the property that was sold only if:
(1) the redemption period specified in section 4(a)(1) of this
chapter has expired;
(2) the property has not been redeemed within the period of
redemption specified in section 4(a) of this chapter; and
(3) not later than nine (9) months after the date of the sale:
(A) the purchaser or the purchaser's assignee; or
(B) in a county where the county auditor and county treasurer
have an agreement under section 4.7 of this chapter, the county auditor;
gives notice of the sale to the owner of record at the time of the sale and any person with a substantial property interest of public record in the tract or real property.

(b) A county executive is entitled to a tax deed to property on which the county executive acquires a lien under IC 6-1.1-24-6 and for which the certificate of sale is not sold under IC 6-1.1-24-6.1 only if:

1. the redemption period specified in section 4(b) of this chapter has expired;
2. the property has not been redeemed within the period of redemption specified in section 4(b) of this chapter; and
3. not later than ninety (90) days after the date the county executive acquires the lien under IC 6-1.1-24-6, the county auditor gives notice of the sale to:
   - (A) the owner of record at the time the lien was acquired; and
   - (B) any person with a substantial property interest of public record in the tract or real property.

(c) A purchaser of a certificate of sale under IC 6-1.1-24-6.1 is entitled to a tax deed to the property for which the certificate was sold only if:

1. the redemption period specified in section 4(c) of this chapter has expired;
2. the property has not been redeemed within the period of redemption specified in section 4(c) of this chapter; and
3. not later than ninety (90) days after the date of sale of the certificate of sale under IC 6-1.1-24, the purchaser gives notice of the sale to:
   - (A) the owner of record at the time of the sale; and
   - (B) any person with a substantial property interest of public record in the tract or real property.

(d) A purchaser or the purchaser's assignee is entitled to a tax deed to the property that was sold under IC 6-1.1-24-5.5(b) only if:

1. the redemption period specified in section 4(a)(4) of this chapter has expired;
2. the property has not been redeemed within the period of redemption specified in section 4(a)(4) of this chapter; and
3. not later than ninety (90) days after the date of sale, the purchaser or the purchaser's assignee gives notice of the sale to:
   - (A) the owner of record at the time of the sale; and
   - (B) any person with a substantial property interest of public record in the tract or real property.

(e) The person required to give the notice under subsection (a), (b), or (c) shall give the notice by sending a copy of the notice by certified mail to:

1. the owner of record at the time the sale:
   - (A) sale of the property;
   - (B) acquisition of the lien on the property under IC 6-1.1-24-6; or
   - (C) sale of the certificate of sale on the property under IC 6-1.1-24 at the last address of the owner for the property, as indicated in the records of the county auditor; and
2. any person with a substantial property interest of public record at the address for the person included in the public record that indicates the interest.

However, if the address of the person with a substantial property interest of public record is not indicated in the public record that created the interest and cannot be located by ordinary means by the person required to give the notice under subsection (a), (b), or (c), the person may give notice by publication in accordance with IC 5-3-1-4 each week for three (3) consecutive weeks.

(f) The notice that this section requires shall contain at least the following:

1. A statement that a petition for a tax deed will be filed on or after a specified date.
2. The date on or after which the petitioner intends to petition for a tax deed to be issued.
3. A description of the tract or real property shown on the certificate of sale.
4. The date the tract or real property was sold at a tax sale.
5. The name of the:
   - (A) purchaser or purchaser's assignee;
   - (B) county executive that acquired the lien on the property under IC 6-1.1-24-6; or
   - (C) person that purchased the certificate of sale on the property under IC 6-1.1-24.
6. A statement that any person may redeem the tract or real property.
7. The components of the amount required to redeem the tract or real property.
8. A statement that an entity identified in subdivision (5) is entitled to reimbursement for additional taxes or special assessments on the tract or real property that were paid by the entity subsequent to the tax sale, lien acquisition, or purchase of the certificate of sale, and before redemption, plus interest.
9. A statement that the tract or real property has not been redeemed.
10. A statement that an entity identified in subdivision (5) is entitled to receive a deed for the tract or real property if it is not redeemed before the expiration of the period of redemption specified in section 4 of this chapter.
11. A statement that an entity identified in subdivision (5) is entitled to reimbursement for costs described in section 2(e) of this chapter.
12. The date of expiration of the period of redemption specified in section 4 of this chapter.
13. A statement that if the property is not redeemed, the owner of record at the time the tax deed is issued may have a right to the tax sale surplus, if any.
14. The street address, if any, or a common description of the tract or real property.
15. The key number or parcel number of the tract or real property.

(f) The notice under this section must include not more than one (1) tract or item of real property listed and sold in one (1) description. However, when more than one (1) tract or item of real property is owned by one (1) person, all of the tracts or real property that are owned by that person may be included in one (1) notice.

(g) A single notice under this section may be used to notify joint owners of record at the last address of the joint owners for the property sold, as indicated in the records of the county auditor.

(h) The notice required by this section is considered sufficient if the notice is mailed to the address required under subsection (e), (d).

(i) The notice under this section and the notice under section 4.6 of this chapter are not required for persons in possession not shown in the public records.

(j) If the purchaser fails to:

1. comply with subsection (c)(3); or
2. petition for the issuance of a tax deed within the time permitted under section 4.6(a) of this chapter;
the certificate of sale reverts to the county executive and may be retained by the county executive or sold under IC 6-1.1-24-6.1.

SECTION 30. IC 6-1.1-25.4-6.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4.6. (a) After the expiration of the redemption period specified in section 4 of this chapter but not later than six (6) months after the expiration of the period of redemption:

1. the purchaser, the purchaser's assignee, the county executive, or the purchaser of the certificate of sale under IC 6-1.1-24 may; or
2. in a county where the county auditor and county treasurer have an agreement under section 4.7 of this chapter, the county auditor shall, upon the request of the purchaser or the purchaser's assignee;
file a verified petition in the same court and under the same cause number in which the judgment of sale was entered asking the court to direct the county auditor to issue a tax deed if the real property is not redeemed from the sale. Notice of the filing of this petition shall be given to the same parties and in the same manner as provided in section 4.5 of this chapter, except that, if notice is given by publication, only one (1) publication is required. The notice required by this section is considered sufficient if the notice is sent to the address required by section 4.5(e) section 4.5(d) of this chapter. Any
person owning or having an interest in the tract or real property may file a written objection to the petition with the court not later than thirty (30) days after the date the petition was filed. If a written objection is timely filed, the court shall conduct a hearing on the objection.

(b) Not later than sixty-one (61) days after the petition is filed under subsection (a), the court shall enter an order directing the county auditor (on the production of the certificate of sale and a copy of the order) to issue to the petitioner a tax deed if the court finds that the following conditions exist:

(1) The time of redemption has expired.
(2) The tract or real property has not been redeemed from the sale before the expiration of the period of redemption specified in section 4 of this chapter.
(3) Except with respect to a petition for the issuance of a tax deed under a sale of the certificate of sale on the property under IC 6-1.1-24-6.1, all taxes and special assessments, penalties, and costs have been paid.
(4) The notices required by this section and section 4.5 of this chapter have been given.
(5) The petitioner has complied with all the provisions of law entitled the petitioner to a deed.

The county auditor shall execute deeds issued under this subsection in the name of the state under the county auditor's name. If a certificate of sale is lost before the execution of a deed, the county auditor shall issue a replacement certificate if the county auditor is satisfied that the original certificate existed.

(c) Upon application by the grantee of a valid tax deed in the same court and under the same cause number in which the judgment of sale was entered, the court shall enter an order to place the grantee of a valid tax deed in possession of the real estate. The court may enter any orders and grant any relief that is necessary or desirable to place or maintain the grantee of a valid tax deed in possession of the real estate.

(d) Except as provided in subsections (e) and (f), if the court refuses to enter an order directing the county auditor to execute and deliver the tax deed because of the failure of the petitioner under subsection (a) to fulfill the requirements of this section, the court shall order the return of the purchase price minus a penalty of twenty-five percent (25%) of the amount of the purchase price. Penalties paid under this subsection shall be deposited in the county general fund.

(e) Notwithstanding subsection (d), in all cases in which:

(1) The petitioner under subsection (a) has made a bona fide attempt to comply with the statutory requirements under subsection (b) for the issuance of the tax deed but has failed to comply with these requirements; and
(2) The court refuses to enter an order directing the county auditor to execute and deliver the tax deed because of the failure to comply with these requirements;

the county auditor shall not execute the deed but shall refund the purchase money plus six percent (6%) interest per annum from the county treasury to the purchaser, the purchaser's successors or assigns, or the purchaser of the certificate of sale under IC 6-1.1-24. The tract or item of real property, if it is then eligible for sale under IC 6-1.1-24, shall be placed on the delinquent list as an initial offering under IC 6-1.1-24-6.

(f) Notwithstanding subsections (d) and (e), the court shall not order the return of the purchase price if:

(1) The purchaser or the purchaser of the certificate of sale under IC 6-1.1-24-6 has failed to provide notice or has provided insufficient notice as required by section 4.5 of this chapter; and
(2) The sale is otherwise valid.

(g) A tax deed executed under this section vests in the grantee an estate in fee simple absolute, free and clear of all liens and encumbrances created or suffered before or after the tax sale except those liens granted priority under federal law, and the lien of the state or a political subdivision for taxes and special assessments that accrue subsequent to the sale. However, the estate is subject to all easements, covenants, declarations, and other deed restrictions and laws governing land use, including all zoning restrictions and liens and encumbrances created or suffered by the purchaser at the tax sale. The deed is prima facie evidence of:

(1) The regularity of the sale of the real property described in the deed;
(2) The regularity of all proper proceedings; and
(3) Valid title in fee simple in the grantee of the deed.

(h) A tax deed issued under this section is incontestable except by appeal from the order of the court directing the county auditor to issue the tax deed filed not later than sixty (60) days after the date of the court's order.

SECTION 31. IC 6-1.1-25-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 9. (a) When a county acquires title to real property under IC 6-1.1-24 and this chapter, the county executive may dispose of the real property under IC 36-1-11 or subsection (e). The proceeds of any sale under IC 36-1-11 shall be applied as follows:

(1) First, to the cost of the sale or offering for sale of the real property, including the cost of:
(A) maintenance;
(B) preservation;
(C) administration of the property before the sale or offering for sale of the property;
(D) unpaid costs of the sale or offering for sale of the property;
(E) preparation of the property for sale;
(F) advertising; and
(G) appraisal.
(2) Second, to any unrecovered cost of the sale or offering for sale of other real property in the same taxing district acquired by the county under IC 6-1.1-24 and this chapter, including the cost of:
(A) maintenance;
(B) preservation;
(C) administration of the property before the sale or offering for sale of the property;
(D) unpaid costs of the sale or offering for sale of the property;
(E) preparation of the property for sale;
(F) advertising; and
(G) appraisal.
(3) Third, to the payment of the taxes on the real property that were removed from the tax duplicate under section 4(c) of this chapter.
(4) Fourth, any surplus remaining into the county general fund.
(b) The county auditor shall file a report with the board of commissioners before January 31 of each year. The report must:

(1) List the real property acquired under IC 6-1.1-24 and this chapter; and
(2) Indicate if any person resides or conducts a business on the property.

(c) The county auditor shall mail a notice by certified mail before March 1 of each year to each person listed in subsection (b)(2). The notice must state that the county has acquired title to the tract the person occupies.

(d) If the county executive determines under IC 36-1-11 that any real property acquired under this section should be retained by the county, the county executive shall not dispose of the real property. The county executive may repair, maintain, equip, alter, and construct buildings upon the real property so retained in the same manner prescribed for other county buildings.

(e) The county executive may transfer title to real property described in subsection (a) to the redevelopment commission at no cost to the commission for sale, or grant, or other disposition under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, or IC 36-7-15.1-15.2, or IC 36-7-15.1-15.5.

(f) If the real property is located in a geographic area that is not served by a redevelopment commission and the county executive determines that any real property acquired under this section should be held for later sale or transfer by the county executive, the county executive shall wait until an appropriate time to dispose of the real property. The county executive may do the following:

(1) Examine, classify, manage, protect, insure, and maintain the property being held.
(2) Eliminate deficiencies (including environmental deficiencies), carry out repairs, remove structures, make
improvements, and control the use of the property.

(3) Lease the property while it is being held.

The county executive may enter into contracts to carry out part or all of the functions described in subdivisions (1) through (3).

SECTION 32. IC 9-21-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) Except as provided in subsection (e), whenever a local authority in the authority's jurisdiction determines on the basis of an engineering and traffic investigation that the maximum speed permitted under this chapter is greater or less than reasonable and safe under the conditions found to exist on a highway or part of a highway, the local authority may determine and declare a reasonable and safe maximum limit on the highway. The maximum limit declared under this section may do any of the following:

(1) Decrease the limit within urban districts, but not to less than twenty (20) miles per hour.

(2) Increase the limit within an urban district, but not to more than fifty-five (55) miles per hour during daytime and fifty (50) miles per hour during nighttime.

(3) Decrease the limit outside an urban district, but not to less than thirty (30) miles per hour.

(4) Decrease the limit in an alley, but to not less than five (5) miles per hour.

(5) Increase the limit in an alley, but to not more than thirty (30) miles per hour.

The local authority must perform an engineering and traffic investigation before a determination may be made to change a speed limit under subdivision (2), (3), (4), or (5) or before the speed limit within an urban district may be decreased to less than twenty-five (25) miles per hour under subdivision (1).

(b) A local authority in the authority's jurisdiction shall determine by an engineering and traffic investigation the proper maximum speed for all local streets and shall declare a reasonable and safe maximum speed permitted under this chapter for an urban district. However, an engineering and traffic study is not required to be performed for the local streets in an urban district under this subsection if the local authority determines that the proper maximum speed in the urban district is not less than twenty-five (25) miles per hour.

(c) An altered limit established under this section is effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice of the altered limit are erected on the street or highway.

(d) Except as provided in this subsection, a local authority may not alter a speed limit on a highway or extension of a highway in the state highway system. A city or town may establish speed limits on state highways upon which a school is located. However, a speed limit established under this subsection is valid only if the following conditions exist:

(1) The limit is not less than twenty (20) miles per hour.

(2) The limit is imposed only in the immediate vicinity of the school.

(3) Children are present.

(4) The speed zone is properly signed.

(5) The Indiana department of transportation has been notified of the limit imposed by certified mail.

(e) A local authority may decrease a limit on a street to not less than fifteen (15) miles per hour if the following conditions exist:

(1) The street is located within a park or playground established under IC 36-10.

(2) The:

(A) board established under IC 36-10-3;

(B) board established under IC 36-10-4; or

(C) park authority established under IC 36-10-5; requests the local authority to decrease the limit.

(3) The speed zone is properly signed.

SECTION 33. IC 12-19-7-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 32. The serial bonds issued under section 31 of this chapter:

(1) may be of any denomination that is:

(A) not less than fifty dollars ($50); and

(B) not more than one thousand dollars ($1,000);

(2) shall be payable:

(A) at any place named on the serial bonds; and

(B) at any time not later than fifteen (15) years after the date of the serial bonds; and

(3) may bear any rate of interest, payable annually or semiannually;

(4) shall be sold at not less than the par value of the bonds; and

(5) shall be sold in the manner provided for the sale of bonds issued under IC 12-20-23 [before its repeal].

SECTION 34. IC 12-19-7.5-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 31. The serial bonds issued under section 30 of this chapter:

(1) may be of any denomination that is:

(A) not less than fifty dollars ($50); and

(B) not more than one thousand dollars ($1,000);

(2) shall be payable:

(A) at any place named on the serial bonds; and

(B) at any time not later than fifteen (15) years after the date of the serial bonds;

(3) may bear any rate of interest, payable annually or semiannually;

(4) shall be sold at not less than the par value of the bonds; and

(5) shall be sold in the manner provided for the sale of bonds issued under IC 12-20-23 [before its repeal].

SECTION 35. IC 12-20-21-2, AS AMENDED BY P.L.73-2005, SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. Money raised by tax levies made specifically for township assistance purposes, either by a county or township, may not be considered as a part of and may not be commingled with other money of the county. Township assistance money raised by townships may not be commingled except for the money resulting from levy taxes by the townships for reimbursement of the counties for advancements from the general fund.

SECTION 36. IC 12-20-24-1, AS AMENDED BY P.L.73-2005, SECTION 108, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) In addition to the other methods of township assistance financing provided by this article, if a township trustee for a township determines that a particular township's township assistance account will be exhausted before the end of a fiscal year, the township trustee shall notify the township board of that determination.

(b) After receiving notice under subsection (a) that a township's township assistance account will be exhausted before the end of a fiscal year, the township board shall appeal to the department of local government finance for the right to borrow money on a short term basis to fund township assistance services in the township. In the appeal the township board must do the following:

(1) Show that the amount of money contained in the township assistance account will not be sufficient to fund services required to be provided within the township by this article.

(2) Show the amount of money that the board estimates will be needed to fund the deficit.

(3) Indicate a period, not to exceed five (5) years, during which the township would repay the loan.

SECTION 37. IC 12-20-24-5, AS AMENDED BY P.L.73-2005, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) If upon appeal under section 4 of section 1 of this chapter the department determines that a township board should be allowed to borrow money under this chapter, the department shall order the township trustee to borrow the money from a financial institution on behalf of the township board and to deposit the money borrowed in the township's township assistance account.

(b) If upon appeal under section 4 of section 1 of this chapter the department determines that the township board should not be allowed to borrow money, the board may not do so for that year.

SECTION 38. IC 12-20-24-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. If a loan is approved under IC 12-2-4.5 (before its repeal) or this chapter, the board of commissioners or county council (for a loan approved by the board of commissioners or county council before July 1, 2006) or the department shall determine the period during which the township shall repay the loan. However, the period may not exceed five (5) years.
SECTION 39. IC 12-20-24-7, AS AMENDED BY P.L.73-2005, SECTION 112, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. A board of commissioners or a county council (for a loan approved by the board of commissioners or county council before July 1, 2006) or the department may not do any of the following:

1. Approve a request to borrow money made under IC 12-2-4.5 (before its repeal) or this chapter unless the body determines that the township's township assistance account will be exhausted before the account can fund all township obligations incurred under this article.
2. Recommend or approve a loan that will exceed the estimated amount of the deficit.

SECTION 40. IC 12-20-24-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) If a township board:

1. (A) the board of commissioners or the county council, before July 1, 2006; or
2. (B) the department;

then at least (A) or (B) shall levy a property tax beginning in the next succeeding year and continuing for the term of the loan in an amount each year that will be sufficient to pay the principal and interest due on the loan for the year.

(b) If a township board:

1. (A) the board of commissioners or the county council, before July 1, 2006; or
2. (B) the department;

then (A) or (B) shall levy a property tax in the next succeeding year and continuing for the term of the loan in an amount each year that will be sufficient to pay the principal and interest due on the loan for the year.

(c) The property taxes levied under this section shall be retained by the township trustee and applied by the township trustee to retire the debt.

SECTION 41. IC 12-20-25-30, AS AMENDED BY P.L.73-2005, SECTION 131, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 30. (a) The control board shall supervise the township trustee in the administration of township assistance. The control board may appoint one (1) of the board's members to monitor the trustee's compliance with this chapter and to report discrepancies to the control board. The control board may require the board's approval of an expenditure of more than five hundred dollars ($500).

(b) Notwithstanding IC 36-6-6-11, the control board shall review and may reduce or increase the township's budget and proposed tax levy to be advertised by the county auditor. If the control board finds that there will be insufficient revenues available under this chapter for the township to pay valid township assistance claims, the control board may consent to proposed borrowing for township assistance under IC 12-20-23 or IC 12-20-24.

(c) The control board may approve the number, pay, and duties of employees who are employed for the distribution and administration of the distressed township's township assistance program.

(d) The control board may require the township trustee to submit reports on the amounts of township assistance by categories, including the types of goods or services furnished and the vendors who supplied the goods or services.

(e) The control board:

1. (A) the management committee under section 15(a)(5) of this chapter; and
2. (B) the department;

(f) The control board shall establish income eligibility standards for township assistance, subject to the requirements of section 18 of this chapter.

SECTION 42. IC 12-20-25-40, AS AMENDED BY P.L.73-2005, SECTION 138, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 40. The county treasurer shall deposit the disbursements from the treasurer of state in a county fund to be known as the county income tax township assistance control fund. Notwithstanding IC 6-3.5-1.1, IC 6-3.5-6, and IC 6-1.1-18.5, the county treasurer shall disburse the money in the fund in the following priority:

1. To ensure the payment within thirty (30) days of all valid township assistance claims in the distressed township that are not covered by subdivision (3).
2. At the end of each calendar year, to redeem any outstanding bonds issued or repay loans incurred by the county for poor relief or township assistance purposes under IC 12-2-4.5 (before its repeal), IC 12-2-5 (before its repeal), IC 12-20-23 (before its repeal), or IC 12-20-24 to the extent the proceeds of the bonds or loans were advanced to the distressed township.
3. To pay claims approved under section 27 or 28 of this chapter (or IC 12-2-14-22 or IC 12-2-14-23 before their repeal).
4. As provided in IC 6-3.5-6 if the county option income tax is imposed under this chapter. If the county adjusted gross income tax is imposed under this chapter, to provide property tax replacement credits for each civil taxation unit and school corporation in the county as provided in IC 6-3.5-1.1. No part of the county adjusted gross income tax revenue is considered a certified share of a governmental unit as provided in IC 6-3.5-1.1-15. In addition, the county adjusted gross income tax revenue (except for the county adjusted gross income tax revenues that are to be treated as property tax replacements under this subdivision) is in addition to and not a part of the revenue of the township for purposes of determining the township's maximum permissible property tax levy under IC 6-1.1-18.5.

SECTION 43. IC 12-20-25-42, AS AMENDED BY P.L.73-2005, SECTION 140, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 42. (a) This section applies to a township that was certified a distressed township before January 1, 1988.

(b) The controlled status of the distressed township is terminated on July 1, 1989, if the department finds that the following conditions exist:

1. All valid township assistance claims in the distressed township, including the claims approved under IC 12-2-14-22 (before its repeal), IC 12-2-14-23 (before its repeal), or section 27 or 28 of this chapter, have been paid, except for the following:

2. Claims under litigation before the date of the board's finding.
3. Obligations owed to other political subdivisions.
4. The township has no bonds outstanding that were issued to pay for township assistance in the distressed township.
5. Notwithstanding section 4(2) of this chapter, if a township that has had the township's distressed status terminated under subsection (b) uses advances from the county from proceeds of bonds issued under IC 12-2-1 (before its repeal) or this article to pay township assistance claims more than one (1) time in the five (5) years following the termination of the township's distressed status, the township must have the township's civil and township assistance budgets reviewed and approved by the county fiscal body in each year that the tax is levied against the property in the township to repay the advances. The decision of the county fiscal body may be appealed to the department.
6. Notwithstanding IC 12-2-5-6 (before its repeal), IC 12-2-5-8 (before its repeal), IC 12-20-23-15 (before its repeal), and IC 12-20-23-19 (before its repeal), the aggregate principal amount of any outstanding debt that is incurred to pay township assistance claims during the five (5) years following the termination of the township's distressed status under subsection (b) and that is in excess of one-tenth percent (0.1%) of the adjusted value of taxable property in the township as determined under IC 36-1-15 is the direct general obligation of the county.

SECTION 44. IC 33-36-2-3 IS AMENDED TO READ AS
FOllows [effective july 1, 2006]: sec. 3. the violations clerk may accept:

(1) written appearances;
(2) waivers of trial;
(3) admissions of violations; and
(4) payment of civil penalties up to a specific dollar amount set forth in an ordinance adopted by the legislative body, but not more than one hundred fifty dollars ($150); $250 in ordinance violation cases, subject to the schedule prescribed under IC 33-36-3 by the legislative body.

section 45. IC 36-1-7-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2006]: Sec. 45.5. (a) As used in this section, "economic development project" has the meaning set forth in IC 6-3.5-7-13.1(c). The term also includes any project related to transportation services, transportation infrastructure, or the development or construction of a hotel or other tourism destination.

(b) An entity entering into an agreement under this chapter that is related to an economic development project may do any of the following to carry out the agreement:
(1) After appropriation by the entity's fiscal body, transfer money derived from any source to any of the following:
(A) One (1) or more entities that have entered into the agreement.
(B) An economic development entity (as defined in section 15 of this chapter) established by an entity that has entered into the agreement.
(C) A regional development authority, including the northwest Indiana regional development authority established by IC 36-7.5-2-1.
(D) A regional transportation authority including the regional bus authority established under IC 36-9-3-2(c).
(2) Transfer any property or provide personnel, services, or facilities to any entity or authority described in subdivision (1)(A) through (1)(D).

section 46. IC 36-1-8-5, AS AMENDED BY P.L.73-2005, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This section applies whenever the cost of a public work project will be:
(1) At least fifty thousand dollars ($50,000) in:
(A) A consolidated city or second class city;
(B) A county containing a consolidated city or second class city;
(C) A regional water or sewage district established under IC 36-9-3-8 or more.
(2) At least fifty thousand dollars ($50,000) in:
(A) A third class city or town with a population of more than five thousand (5,000); or
(B) A county containing a third class city or town with a population of more than five thousand (5,000); or
(3) At least twenty-five fifty thousand dollars ($25,000) ($50,000) in a political subdivision or an agency not described in subdivision (1) or (2).

(b) The board must comply with the following procedure:
(1) The board shall prepare general plans and specifications describing the kind of public work required, but shall avoid specifications which might unduly limit competition. If the project involves the resurfacing (as defined by IC 8-14-2-1) of a road, street, or bridge, the specifications must show how the weight or volume of the materials will be accurately measured and verified.
(2) The board shall file the plans and specifications in a place reasonably accessible to the public, which shall be specified in the notice required by subdivision (3).
(3) Upon the filing of the plans and specifications, the board shall publish notice in accordance with IC 5-3-1 calling for sealed proposals for the public work needed.
(4) The notice must specify the place where the plans and specifications are on file and the date fixed for receiving bids.
(5) The period of time between the date of the first publication and the date of receiving bids shall be governed by the size of the contemplated project in the discretion of the board, but it may not be more than six (6) weeks.
(6) If the cost of a project is one hundred thousand dollars ($100,000) or more, the board shall require the bidder to submit a financial statement, a statement of experience, a proposed plan or plans for performing the public work, and the equipment that the bidder has available for the performance of the public work. The statement shall be submitted on forms prescribed by the state board of accounts.
(7) The board may not require a bidder to submit a bid before the meeting at which bids are to be received. The meeting for receiving bids must be open to the public. All bids received to the total assessed valuation of the township.
(d) Transfers to a political subdivision's rainy day fund must may be made after the last day of at any time during the fiscal year, and before March 1 of the subsequent calendar year.

section 47. IC 36-1-8-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2006]: Sec. 16. (a) If a county executive disposes of real property, the property taxes collected for each item of the real property in the first year the item of real property subject to tax after the year the real property is sold or otherwise conveyed shall be disbursed to the county executive that sold or otherwise conveyed the item of real property.
(b) Disbursements to the county executive under subsection (a) shall be deposited into the county general fund, the redevelopment fund, the unsafe building fund, or the housing trust fund and shall be used only for one (1) or more of the purposes authorized under IC 36-7-14-22.5 or IC 36-7-15.1-15.5.
(c) The county executive shall forward a copy of each resolution that disposes or otherwise conveys real property to the county auditor.
(d) The disbursement of property taxes under subsection (a) shall terminate in the second year the item of real property subject to tax after the property is sold or otherwise conveyed.

section 48. IC 36-1-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2006]: Sec. 4. (a) This section applies whenever the cost of a public work project will be:
(1) At least seventy-five thousand dollars ($75,000) in:
(A) A consolidated city or second class city;
(B) A county containing a consolidated city or second class city;
(C) A regional water or sewage district established under IC 36-9-3-8 or more.
(2) At least fifty thousand dollars ($50,000) in:
(A) A third class city or town with a population of more than five thousand (5,000); or
(B) A county containing a third class city or town with a population of more than five thousand (5,000); or
(3) At least twenty-five fifty thousand dollars ($25,000) ($50,000) in a political subdivision or an agency not described in subdivision (1) or (2).

(b) The board must comply with the following procedure:
(1) The board shall prepare general plans and specifications describing the kind of public work required, but shall avoid specifications which might unduly limit competition. If the project involves the resurfacing (as defined by IC 8-14-2-1) of a road, street, or bridge, the specifications must show how the weight or volume of the materials will be accurately measured and verified.
(2) The board shall file the plans and specifications in a place reasonably accessible to the public, which shall be specified in the notice required by subdivision (3).
(3) Upon the filing of the plans and specifications, the board shall publish notice in accordance with IC 5-3-1 calling for sealed proposals for the public work needed.
(4) The notice must specify the place where the plans and specifications are on file and the date fixed for receiving bids.
(5) The period of time between the date of the first publication and the date of receiving bids shall be governed by the size of the contemplated project in the discretion of the board, but it may not be more than six (6) weeks.
(6) If the cost of a project is one hundred thousand dollars ($100,000) or more, the board shall require the bidder to submit a financial statement, a statement of experience, a proposed plan or plans for performing the public work, and the equipment that the bidder has available for the performance of the public work. The statement shall be submitted on forms prescribed by the state board of accounts.
(7) The board may not require a bidder to submit a bid before the meeting at which bids are to be received. The meeting for receiving bids must be open to the public. All bids received
shall be opened publicly and read aloud at the time and place designated and not before.

(8) Except as provided in subsection (c), the board shall:

(A) award the contract for public work or improvements to the lowest responsible and responsive bidder; or

(B) reject all bids submitted.

(9) If the board awards the contract to a bidder other than the lowest bidder, the board must state in the minutes or memoranda, at the time the award is made, the factors used to determine which bidder is the lowest responsible and responsive bidder and to justify the award. The board shall keep a copy of the minutes or memoranda available for public inspection.

(10) In determining whether a bidder is responsive, the board may consider the following factors:

(A) Whether the bidder has submitted a bid or quote that conforms in all material respects to the specifications.

(B) Whether the bidder has submitted a bid that complies specifically with the invitation to bid and the instructions to bidders.

(C) Whether the bidder has complied with all applicable statutes, ordinances, resolutions, or rules pertaining to the award of a public contract.

(11) In determining whether a bidder is a responsible bidder, the board may consider the following factors:

(A) The ability and capacity of the bidder to perform the work.

(B) The integrity, character, and reputation of the bidder.

(C) The competence and experience of the bidder.

(12) The board shall require the bidder to submit an affidavit:

(A) that the bidder has not entered into a combination or agreement:

(i) relative to the price to be bid by a person;

(ii) to prevent a person from bidding; or

(iii) to induce a person to refrain from bidding; and

(B) that the bidder's bid is made without reference to any other bid.

(c) Notwithstanding subsection (b)(8), a county may award sand, gravel, asphalt paving materials, or crushed stone contracts to more than one (1) responsible and responsive bidder if the specifications allow for bids to be based upon service to specific geographic areas and the contracts are awarded by geographic area. The geographic areas do not need to be described in the specifications.

SECTION 49. IC 36-1-12-4.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4.7. (a) This section applies whenever a public work project is estimated to cost:

(1) at least twenty-five thousand dollars ($25,000) and less than seventy-five thousand dollars ($75,000) in:

(A) a consolidated city or second class city;

(B) a county containing a consolidated city or second class city; or

(C) a regional water or sewage district established under IC 13-26;

or

(2) at least twenty-five thousand dollars ($25,000) and less than fifty thousand dollars ($50,000) in (A) a third class city or town with a population of more than five thousand (5,000); or (B) a county containing a third class city or town with a population of more than five thousand (5,000); a political subdivision or agency not described in subdivision (1).

(b) The board must proceed under the following provisions:

(1) The board shall invite quotes from at least three (3) persons known to deal in the class of work proposed to be done by mailing them a notice stating that plans and specifications are on file in a specified office. The notice must be mailed not less than seven (7) days before the time fixed for receiving quotes.

(2) The board may not require a person to submit a quote before the meeting at which quotes are to be received. The meeting for receiving quotes must be open to the public. All quotes received shall be opened publicly and read aloud at the time and place designated and not before.

(3) The board shall award the contract for the public work to the lowest responsible and responsive querier.

(4) The board may reject all quotes submitted.

SECTION 50. IC 36-2-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) The county recorder shall tax and collect the fees prescribed by this section for recording, filing, copying, and other services the recorder renders, and shall pay them into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersedes all other recording fees required by law to be charged for services rendered by the county recorder.

(b) The county recorder shall charge the following:

(1) Six dollars ($6) for the first page and two dollars ($2) for each additional page of any document the recorder records if the pages are not larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(2) Fifteen dollars ($15) for the first page and five dollars ($5) for each additional page of any document the recorder records, if the pages are larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(3) For attesting to the release, partial release, or assignment of any mortgage, judgment, lien, or oil and gas lease contained on a multiple transaction document, the fee for each transaction after the first is the amount provided in subdivision (1) plus the amount provided in subdivision (4) and one dollar ($1) for marginal mortgage assignments or marginal mortgage releases.

(4) One dollar ($1) for each cross-reference of a recorded document.

(5) One dollar ($1) per page not larger than eight and one-half (8 1/2) inches by fourteen (14) inches for furnishing copies of records produced by a photographic process; and two dollars ($2) per page that is larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(6) Five dollars ($5) for acknowledging or certifying to a document.

(7) Five dollars ($5) for each deed the recorder records, in addition to other fees for deeds, for the county surveyor's corner perpetuation fund for use as provided in IC 32-19-4-3 or IC 36-2-12-11(e).

(8) A fee in an amount authorized under IC 5-14-3-8 for transmitting a copy of a document by facsimile machine.

(9) A fee in an amount authorized by an ordinance adopted by the county legislature for duplicating a computer tape, a computer disk, an optical disk, microfilm, or similar media. This fee may not cover making a handwritten copy or a photocopy or using xerography or a duplicating machine.

(10) A supplemental fee of three dollars ($3) for recording a document that is paid at the time of recording. The fee under this subdivision is in addition to other fees provided by law for recording a document.

(11) Three dollars ($3) for each mortgage on real estate recorded, in addition to other fees required by this section, distributed as follows:

(A) Fifty cents ($0.50) is to be deposited in the recorder's record perpetuation fund.

(B) Two dollars and fifty cents ($2.50) is to be distributed to the auditor of state on or before June 20 and December 20 of each year as provided in IC 24-9-9-3.

(c) The county treasurer shall establish a recorder's records perpetuation fund. All revenue received under subsection (b)(5), (b)(8), (b)(9), and (b)(10), and fifty cents ($0.50) from revenue received under subsection (b)(11), shall be deposited in this fund. The county recorder may use any money in this fund without appropriation for the preservation of records and the improvement of record keeping systems and equipment.

(d) As used in this section, "record" or "recording" includes the functions of recording, filing, and filing for record.

(e) The county recorder shall post the fees set forth in subsection (b) in a prominent place within the county recorder's office where the fee schedule will be readily accessible to the public.

(f) The county recorder may not tax or collect any fee for:

(1) recording an official bond of a public officer, a deputy, an appointee, or an employee; or

(2) performing any service under any of the following:

(A) IC 6-1.1-22-2(c).

(B) IC 8-23-7.

(C) IC 8-23-23.
(D) IC 10-17-2-3.
(E) IC 10-17-3-2.
(F) IC 12-14-13.
(G) IC 12-14-16.

(g) The state and its agencies and instrumentalties are required to pay the recording fees and charges that this section prescribes.

SECTION 51. IC 36-4-6-4, AS AMENDED BY P.L.230-2005, SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) This section applies to third class cities, except as provided by section 5 of this chapter.

(b) This subsection does not apply to a city with an ordinance described by subsection (j) or (m). The legislative body shall adopt an ordinance to divide the city into five (5) districts that:

1. are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;
2. are reasonably compact;
3. do not cross precinct boundary lines except as provided in subsection (c) or (d); and
4. contain, as nearly as is possible, equal population.

(c) The boundary of a city legislative body district may cross a precinct boundary line if:

1. more than one (1) member of the legislative body elected from the districts established under subsection (b), (j), or (m) resides in one (1) precinct established under IC 3-11-1-5 after the most recent municipal election; and
2. following the establishment of a legislative body district whose boundary crosses a precinct boundary line, not more than one (1) member of the legislative body elected from the districts resides within the same city legislative body district.

(d) The boundary of a city legislative body district may cross a precinct line if the districts would not otherwise contain, as nearly as is possible, equal population.

(e) A city legislative body district with a boundary described by subsection (c) or (d) may not cross a census block boundary line:

1. except when following a precinct boundary line; or
2. unless the city legislative body certifies in the ordinance that the census block has no population, and is not likely to ever have population.

(f) The legislative body may not adopt an ordinance dividing the city into districts with boundaries described by subsection (c) or (d) unless the clerk of the city mails a written notice to the circuit court clerk. The notice must:

1. state that the legislative body is considering the adoption of an ordinance described by this subsection; and
2. be mailed not later than ten (10) days before the legislative body adopts the ordinance.

(g) The division under subsection (b), (j), or (m) shall be made:

1. during the second year after a year in which a federal decennial census is conducted; and
2. when required to assign annexed territory to a district.

This division may be made at any other time, subject to IC 3-11-1-5-32.

(h) This subsection does not apply to a city with an ordinance described by subsection (j) or (m). The legislative body is composed of five (5) members elected from the districts established under subsection (b) and two (2) at-large members.

(i) This subsection does not apply to a city with an ordinance described by subsection (j) or (m). Each voter of the city may vote for two (2) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The two (2) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(j) A city may adopt an ordinance under this subsection to divide the city into four (4) districts that:

1. are composed of contiguous territory;
2. are reasonably compact;
3. do not cross precinct boundary lines, except as provided in subsection (c) or (d); and
4. contain, as nearly as is possible, equal population.

(k) This subsection applies to a city with an ordinance described by subsection (j). The legislative body is composed of four (4) members elected from the districts established under subsection (j) and three (3) at-large members.

(l) This subsection applies to a city with an ordinance described by subsection (j). Each voter of the city may vote for three (3) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The three (3) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(m) This subsection applies only if the ordinance adopted under IC 36-4-1.5-3 by the town legislative body of a town that has a population of less than ten thousand (10,000) and that becomes a city specifies that the city legislative body districts are governed by this subsection. The ordinance adopted under IC 36-4-1.5-3(b)(1) dividing the town into city legislative body districts may provide that:

1. the city shall be divided into three (3) districts that:
   (A) are composed of contiguous territory;
   (B) are reasonably compact;
   (C) do not cross precinct boundary lines, except as provided in subsection (c) or (d); and
   (D) contain, as nearly as is possible, equal population;
2. the legislative body of the city is composed of three (3) members elected from the districts established under this subsection and two (2) at-large members.

Each voter of the city may vote for two (2) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The two (2) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(n) A copy of the ordinance establishing districts under this section must be filed with the circuit court clerk of the county that contains the greatest population of the city no later than thirty (30) days after the ordinance is adopted.

(o) If any territory in the city is not included in one (1) of the districts established under this section, the territory is included in the district that:

1. is contiguous to that territory; and
2. contains the least population of all districts contiguous to that territory.

(p) If any territory in the city is included in more than one (1) of the districts established under this section, the territory is included in the district that:

1. is one (1) of the districts in which the territory is described in the ordinance adopted under this section; and
2. is contiguous to that territory; and
3. contains the least population of all districts contiguous to that territory.

SECTION 52. IC 36-4-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) The legislative body shall hold its first regular meeting in its chamber at 7:30 p.m. on the first Monday in January after its election. In subsequent months, the legislative body shall hold regular meetings at least once a month, unless its rules require more frequent meetings.

(b) A special meeting of the legislative body shall be held when called by the city executive or when called under the rules of the legislative body.

SECTION 53. IC 36-4-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) This subsection applies only to second class cities. At its first regular meeting under section 7 of this chapter, and on the first Monday of each succeeding January, the legislative body shall choose from its members a president and a vice president.

(b) This subsection applies only to third class cities. The city executive shall preside at all meetings of the legislative body, but may vote only in order to break a tie. At its first regular meeting under section 7 of this chapter and on the first Monday of each succeeding January, the legislative body shall choose from its members a president pro tempore to preside whenever the executive is absent.

SECTION 54. IC 36-4-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) This section does not apply to compensation paid by a city to members of its
police and fire departments.

(b) Subject to the approval of the city legislative body, the city executive shall fix the compensation of each appointive officer, deputy, and other employee of the city. The legislative body may reduce but may not increase any compensation fixed by the executive. Compensation must be fixed under this section before September 20 for a third class city, and not later than September 30 of each year for the ensuing budget year.

(c) Compensation fixed under this section may not be increased or decreased by the executive during the budget year for which it is fixed, but may be reduced by the executive.

(d) Notwithstanding subsection (b), the city clerk may, with the approval of the legislative body, fix the salaries of deputies and employees appointed under IC 36-4-11-4.

SECTION 55. IC 36-4-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. If the city legislative body does not pass the ordinances ordinance required by section 7 of this chapter or before October 1 of each year, the most recent annual appropriations and annual tax levy are continued for the ensuing budget year.

SECTION 56. IC 36-6-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) This section does not apply to the appropriation of money to pay a deputy, an employee, or a technical adviser that assists a township assessor with assessment duties or to an elected township assessor.

(b) The township legislative body shall fix the:

(1) salaries;
(2) wages;
(3) rates of hourly pay; and
(4) remuneration other than statutory allowances;

of all officers and employees of the township.

(c) Subject to subsection (d), the township legislative body may reduce the salary of an elected or appointed official. However, except as provided in subsection (i), the official is entitled to a salary that is not less than the salary fixed for the first year of the term of office that immediately preceded the current term of office.

(d) Except as provided in subsections (e) and (i), the township legislative body may not alter the salaries of elected or appointed officers during the fiscal year for which they are fixed, but it may add or eliminate any other position and change the salary of any other employee, if the necessary funds and appropriations are available.

(e) In a township that does not elect a township assessor under IC 36-6-5-1, the township legislative body may appropriate available township funds to supplement the salaries of elected or appointed officers to compensate them for performing assessing duties. However, in any calendar year no officer or employee may receive a salary and additional salary supplements which exceed the salary fixed for that officer or employee under subsection (b).

(f) If a change in the mileage allowance paid to state officers and employees is established by July 1 of any year, that change shall be included in the compensation fixed for the township executive and assessor under this section, to take effect January 1 of the next year. However, the township legislative body may by ordinance provide for the change in the sum per mile to take effect before January 1 of the next year.

(g) The township legislative body may not reduce the salary of the township executive without the consent of the township executive during the term of office of the township executive as set forth in IC 36-6-4-2.

(h) This subsection applies when a township executive dies or resigns from office. The person filling the vacancy of the township executive shall receive at least the same salary the previous township executive received for the remainder of the unexpired term of office of the township executive (as set forth in IC 36-6-4-2), unless the person consents to a reduction in salary.

(i) In a year in which there is not an election of members to the township legislative body, the township legislative body may by unanimous vote reduce the salaries of the members of the township legislative body by any amount.

SECTION 57. IC 36-7-7.6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) The following members shall be appointed to the commission:

(1) A member of the county executive of each county described in section 1 of this chapter, to be appointed by the county executive.
(2) A member of the county fiscal body of each county described in section 1 of this chapter, to be appointed by the county fiscal body.
(3) The county surveyor of each county described in section 1 of this chapter.
(4) For a county having a population of not more than four hundred thousand (400,000), one (1) person appointed by the executive of each of the eleven (11) largest municipalities.
(5) For a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), one (1) person appointed by the executive of each of the nineteen (19) largest municipalities.

(b) One (1) voting member of the commission shall be appointed by the governor. The member appointed under this subsection may not vote in a weighted vote under section 9 of this chapter.

(c) A member of the commission who is a county surveyor may not vote in a weighted vote under section 9 of this chapter.

SECTION 58. IC 36-7-7.6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) Twenty-six (26) A majority of the commission members constitute a quorum.

(b) An action of the commission is official only if both the following apply:

(1) The action is authorized at a regular meeting or a properly called special meeting in which at least one (1) member from each county described in section 1 of this chapter is present.
(2) The action is authorized by:

(A) the affirmative votes of twenty-six (26) a majority of the members of the commission; or
(B) a weighted affirmative vote of more than fifty (50) if a motion is made under subsection (c).

(c) The weighted voting authorized under this chapter may not be used after June 30, 2007. Upon a motion by any one (1) member of the commission that is properly seconded by another member at:

(1) a regular meeting; or
(2) a properly called special meeting;

the commission shall use the weighted voting process described in subsection (d).

(d) Until June 30, 2007, each commission member has a weighted vote determined as follows:

(1) In the case of a member appointed by the executive of a municipality, the member's weighted vote is determined in STEP FIVE of the following formula:

**STEP ONE:** Determine the population of the municipality as reported by the 2000 decennial census.

**STEP TWO:** Determine the sum of the population of the counties described in section 1 of this chapter as reported by the 2000 decennial census.

**STEP THREE:** Divide the number determined in STEP ONE by the number determined in STEP TWO.

**STEP FOUR:** Round the number determined in STEP THREE to the nearest ten-thousandth (0.0001).

**STEP FIVE:** Multiply the number determined in STEP FOUR by one hundred (100).

(2) In the case of a member appointed by the executive of a county, the member's weighted vote is determined in STEP FIVE of the following formula:

**STEP ONE:** Determine the population of the area in the county that is not within a municipality and is not within a township described in section 4(a)(6) of this chapter as
reported by the 2000 decennial census.
STEP TWO: Determine the sum of the population of the county as reported by the 2000 decennial census.
STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.
STEP FOUR: Round the number determined in STEP THREE to the nearest ten-thousandth (0.0001).
STEP FIVE: Multiply the number determined in STEP FOUR by fifty (50).
(3) In the case of a member appointed by a fiscal body, the member's weighted vote is determined in STEP FIVE of the following formula:
STEP ONE: Determine the population of the area in the county that is not within a municipality and is not within a township described in section 4(a)(6) of this chapter as reported by the 2000 decennial census.
STEP TWO: Determine the sum of the population of the counties described in section 1 of this chapter as reported by the 2000 decennial census.
STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.
STEP FOUR: Round the number determined in STEP THREE to the nearest ten-thousandth (0.0001).
STEP FIVE: Multiply the number determined in STEP FOUR by fifty (50).
(4) In the case of a member appointed by the trustee of a township under section 4(a)(6) of this chapter, the member's weighted vote is determined in STEP FIVE of the following formula:
STEP ONE: Determine the population of the township as reported by the 2000 decennial census.
STEP TWO: Determine the sum of the population of the counties described in section 1 of this chapter as reported by the 2000 decennial census.
STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.
STEP FOUR: Round the number determined in STEP THREE to the nearest ten-thousandth (0.0001).
STEP FIVE: Multiply the number determined in STEP FOUR by fifty (50).
SECTION 59. IC 36-7-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. As used in this chapter:
"Community organization" means a citizen's group, neighborhood association, neighborhood development corporation, or similar organization that:
(1) has specific geographic boundaries defined in its bylaws or articles of incorporation and contains at least forty (40) households within those boundaries;
(2) is a nonprofit corporation that is representative of at least twenty-five (25) households or twenty percent (20%) of the households in the community, whichever is less;
(3) is operated primarily for the promotion of social welfare and general neighborhood improvement and enhancement;
(4) has been incorporated for at least two (2) years; and
(5) is exempt from taxation under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code.
"Department" refers to the executive department authorized by ordinance to administer this chapter. In a consolidated city, this department is the department of metropolitan development, subject to IC 36-3-4-23.
"Enforcement authority" refers to the chief administrative officer of the department, except in a consolidated city. In a consolidated city, the division of development services is the enforcement authority, subject to IC 36-3-4-23.
"Hearing authority" refers to a person or persons designated as such by the executive of a city or county, or by the legislative body of a town. However, in a consolidated city, the director of the department or a person designated by the director is the hearing authority. An employee of the enforcement authority may not be designated as the hearing authority.
"Known or recorded fee interest, life estate interest, or equitable interest of a contract purchaser" means any fee interest, life estate interest, or equitable interest of a contract purchaser held by a person whose identity and address may be determined from:
(1) an instrument recorded in the recorder's office of the county where the unsafe premises is located;
(2) written information or actual knowledge received by the department or, in the case of a consolidated city, the enforcement authority; or
(3) a review of department (or, in the case of a consolidated city, the enforcement authority) records that is sufficient to identify information that is reasonably ascertainable.
"Known or recorded substantial property interest" means any right in real property, including a fee interest, a life estate interest, a future interest, a mortgage interest, or an equitable interest of a contract purchaser, that:
(1) may be affected in a substantial way by actions authorized by this chapter; and
(2) is held by a person whose identity and address may be determined from:
(A) an instrument recorded in the recorder's office of the county where the unsafe premises is located;
(B) written information or actual knowledge received by the department or, in the case of a consolidated city, the enforcement authority; or
(C) a review of department (or, in the case of a consolidated city, the enforcement authority) records that is sufficient to identify information that is reasonably ascertainable.
"Substantial property interest" means any right in real property that may be affected in a substantial way by actions authorized by this chapter, including a fee interest, a life estate interest, a future interest, a present possessory interest, a mortgage interest, or an equitable interest of a contract purchaser. In a consolidated city, the interest reflected by a deed, lease, license, mortgage, land sale contract, or lien is not a substantial property interest unless the deed, lease, license, mortgage, land sale contract, lien, or evidence of it is:
(1) recorded in the office of the county recorder; or
(2) the subject of a written information that is received by the division of development services and includes the name and address of the holder of the interest described.
SECTION 60. IC 36-7-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) A hearing must be held relative to each order of the enforcement authority, except for an order issued under section 5(a)(2), 5(a)(3), 5(a)(4), or 5(a)(5) of this chapter. An order issued under section 5(a)(2), 5(a)(3), 5(a)(4), or 5(a)(5) of this chapter becomes final ten (10) days after notice is given. A continued hearing is requested before the (10) day period ends by a person holding a fee interest, life estate interest, mortgage interest, or equitable interest of a contract purchaser in the unsafe premises. The hearing shall be conducted by the hearing authority.
(b) The hearing shall be held on a business day no earlier than ten (10) days after notice of the order is given. The hearing authority may, however, take action at the hearing, or before the hearing if a written request is received by the enforcement authority on or before the hearing date shown on the order. Unless the hearing authority takes action to have the continued hearing held on a definite, specified date, notice of the continued hearing must be given to the person to whom the order was issued at least five (5) days before the continued hearing date, in the manner prescribed by section 25 of this chapter. If the order being considered for the continued hearing was served by publication, it is sufficient to give notice of the continued hearing by publication unless the enforcement authority has received information in writing that enables it to make service under section 25 of this chapter by a method other than publication.
(c) The person to whom the order was issued, any person having a substantial property interest in the unsafe premises that are the subject of the order, or any other person with an interest in the proceedings may appear in person or by counsel at the hearing. Each person appearing at the hearing is entitled to present evidence, cross-examine opposing witnesses, and present arguments.
(d) At the conclusion of any hearing at which a continuance is not granted, the hearing authority may make findings and take action to:

1. affirm the order;
2. rescind the order; or
3. modify the order, but unless the person to whom the order was issued, or counsel for that person, is present at the hearing, the hearing authority may modify the order in only a manner that makes its terms less stringent.

(e) In addition to affirming the order, in those cases in which the hearing authority finds that there has been a willful failure to comply with the order, the hearing authority may impose a civil penalty in an amount not to exceed five thousand dollars ($5,000). The effective date of the civil penalty may be postponed for a reasonable period, after which the hearing authority may order the civil penalty reduced or stricken if the hearing authority is satisfied that all work necessary to fully comply with the order has been done. For purposes of an appeal under section 8 of this chapter or enforcement of an order under section 17 of this chapter, action of the hearing authority is considered final upon the affirmation of the order, even though the hearing authority may retain jurisdiction for the ultimate determination of a time-related to the civil penalty. In the hearing authority’s exercise of continuing jurisdiction, the hearing authority may, in addition to reducing or striking the civil penalty, impose and/or assess a civil penalty in an amount not to exceed five thousand dollars ($5,000) per civil penalty. An additional civil penalty may be imposed if the hearing authority finds that:

1. significant work on the premises to comply with the affirmed order has not been accomplished; and
2. the premises have a negative effect on property values or the quality of life of the surrounding area or the premises require the provision of services by local government in excess of the services required by ordinary properties.

(f) If, at a hearing, a person to whom an order has been issued requests an additional period to accomplish action required by the order, and shows good cause for this request to be granted, the hearing authority may grant the request. However, as a condition for allowing the additional period, the hearing authority may require that the person post a performance bond to be forfeited if the action required by the order is not completed within the additional period.

(g) The board or commission having control over the department shall, at a public hearing, after having given notice of the time and place of the hearing by publication in accordance with IC 5-3-1, adopt a schedule setting forth the maximum amount of performance bonds applicable to various types of ordered action. The hearing authority shall use this schedule to fix the amount of the performance bond required under subsection (f).

(h) The record of the findings made and action taken by the hearing authority at the hearing shall be available to the public upon request. However, neither the enforcement authority nor the hearing authority is required to give any person notice of the findings and action.

(i) If a civil penalty under subsection (e) is unpaid for more than fifteen (15) days after payment of the civil penalty is due, the civil penalty may be collected from any person against whom the hearing officer assessed the civil penalty or fine. A civil penalty or fine may be collected under this subsection in the same manner as costs under section 13 or 13.5 of this chapter. The amount of the civil penalty or fine that is collected shall be deposited in the unsafe building fund.

SECTION 61. IC 36-7-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) An action taken under section 7(d) or 7(e) of this chapter is subject to review by the circuit or superior court of the county in which the unsafe premises are located, on request of:

1. any person who has a substantial property interest in the unsafe premises; or
2. any person to whom that order was issued.

(b) A person requesting judicial review under this section must file a verified complaint including the findings of fact and the action taken by the hearing authority. The complaint must be filed within ten (10) days after the date when the action was taken.

(c) An appeal under this section is an action de novo. The court may affirm, modify, or reverse the action taken by the hearing authority.

SECTION 62. IC 36-7-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) The enforcement authority may cause the action required by an order issued under section 5(a)(2), 5(a)(3), 5(a)(4), or 5(a)(5) of this chapter to be performed by a contractor if:

1. the order has been served, in the manner prescribed by section 25 of this chapter, on each person having a known or recorded fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises that are the subject of the order;
2. the order has not been complied with;
3. a hearing was not requested under section 5(b)(6) of this chapter, or, if a hearing was requested, the order was affirmed at the hearing; and
4. the order is not being reviewed under section 8 of this chapter.

(b) The enforcement authority may cause the action required by an order, other than an order under section 5(a)(2), 5(a)(3), 5(a)(4), or 5(a)(5) of this chapter, to be performed if:

1. service of an order under section 5(a)(1) of this chapter, in the manner prescribed by section 25 of this chapter, has been made on each person having a known or recorded substantial property interest or present possessory interest in the unsafe premises that are the subject of the order;
2. service of an order under section 5(a)(6), 5(a)(7), or 5(a)(8) of this chapter, in the manner prescribed by section 25 of this chapter, has been made on each person having a known or recorded substantial property interest, and persons holding a present possessory interest, as required, in the unsafe premises that are the subject of the order are currently subject to an order requiring the accomplishment of substantially identical action; and
3. the order is not being reviewed under section 8 of this chapter.

(c) If action is being taken under this section on the basis of an order that was served by publication, it is sufficient to serve the statement by publication and indicate that the enforcement authority intends to perform the work, unless the authority has received information in writing that enables it to make service under section 25 of this chapter by a method other than publication.

SECTION 63. IC 36-7-9-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) The work required by an order of the enforcement authority may be performed in the following manner:

1. If the work is being performed under an order other than an order under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter, and if the cost of this work is estimated to be less than ten thousand dollars ($10,000), the department, acting through the unit’s enforcement authority or other agent, may perform the work by means of the unit’s own workers and equipment owned or leased by the unit. Notice that this work is to be performed must be given to all persons with a known or recorded substantial property interest, in the manner prescribed in subsection (c), at least ten (10) days before the date of performance of the work by the enforcement authority. This notice must include a statement that an amount representing a reasonable estimate of the cost incurred by the enforcement authority in processing the matter and performing the work may, if not paid, be recorded after a hearing as a lien against all persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises.
2. If the work is being performed under an order other than an order under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter, and if the estimated cost of this work is ten thousand dollars ($10,000) or more, this work must be let at public bid to a contractor licensed and qualified under law. The obligation to
pay costs imposed by section 12 of this chapter is based on the condition of the unsafe premises at the time the public bid was accepted. Changes occurring in the condition of the unsafe premises after the public bid was accepted do not eliminate or diminish this obligation.

(3) If the work is being performed under an order issued under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter, the work may be performed by a contractor who has been awarded a base bid contract to perform the work for the enforcement authority, or by the department, acting through the unit's enforcement authority or other governmental agency and using the unit's own workers and equipment owned or leased by the unit. Work performed under an order issued under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter may be performed without further notice to the persons holding a fee interest, life estate interest, or equitable interest of a contract purchaser, and these persons are liable for the costs incurred by the enforcement authority in processing the matter and performing the work, as provided by section 12 of this chapter.

(b) Bids may be solicited and accepted for work on more than one (1) property if the bid reflects an allocation of the bid amount among the various unsafe premises in proportion to the work to be accomplished. The part of the bid amount attributable to each of the unsafe premises constitutes the basis for calculating the part of the costs described by section 12(a)(1) of this chapter.

(c) All persons who have a known or recorded substantial property interest in the unsafe premises and are subject to an order other than an order under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter must be notified about the public bid in the manner prescribed by section 25 of this chapter, by means of a written statement including:

(1) the name of the person to whom the order was issued;
(2) a legal description or address of the unsafe premises that are the subject of the order;
(3) a statement that a contract is to be let at public bid to a licensed contractor to accomplish work to comply with the order;
(4) a description of work to be accomplished;
(5) a statement that both the bid price of the licensed contractor who accomplishes the work and an amount representing a reasonable estimate of the cost incurred by the enforcement authority in processing the matter of the unsafe premises may, if not paid, be recorded after a hearing as a lien against all persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises;
(6) the time of the bid opening;
(7) the place of the bid opening; and
(8) the name, address, and telephone number of the enforcement authority.

(d) If the notice of the statement that public bids are to be let is served by publication, the publication must include the information required by subsection (c), except that it need only include a general description of the work to be accomplished. The publication must also state that a copy of the statement of public bid may be obtained from the enforcement authority.

(e) Notice of the statement that public bids are to be let must be given, at least ten (10) days before the date of the public bid, to all persons who have a known or recorded substantial property interest in the property and are subject to an order other than an order under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter.

(f) If action is being taken under this section on the basis of an order that was served by publication, it is sufficient to serve the statement that public bids are to be let by publication, unless the enforcement authority has received information in writing that enables the unit to make service under section 25 of this chapter by a method other than publication.

SECTION 64. IC 36-7-9-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) If all or any part of the costs listed in section 12 of this chapter remain unpaid for any unsafe premises (other than unsafe premises owned by a governmental entity) for more than fifteen (15) days after completion of the work, the enforcement authority may send notice under section 25 of this chapter to each person who held a known or recorded fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises. If the notice is sent, the enforcement authority shall also send notice to any mortgagee with a known or recorded substantial property interest. The notice must require full payment of the amount owed with thirty (30) days.

(c) If full payment of the amount owed is not made less than thirty (30) days after the notice is delivered, the enforcement officer may certify the following information to the county auditor:

(1) The name of each person who held a known or recorded fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises.
(2) The description of the unsafe premises, as shown by the records of the county auditor.

that there is a reasonable probability of obtaining recovery, the enforcement authority shall prepare a record stating:

(1) the name and last known address of each person who held a known or recorded fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises from the time the order requiring the work to be performed was recorded to the time that the work was completed;
(2) the legal description or address of the unsafe premises that were the subject of work;
(3) the nature of the work that was accomplished;
(4) the amount of the unpaid bid price of the work that was accomplished; and
(5) the amount of the unpaid average processing expense.

The record must be in a form approved by the state board of accounts.

(b) The enforcement authority, or its head, shall swear to the accuracy of the record before the clerk of the circuit court and deposit the record in the clerk's office. Notice that the record has been filed and that a hearing on the amounts indicated in the record may be held must be sent in the manner prescribed by section 25 of this chapter to all of the following:

(1) The persons named in the record, in the manner prescribed by section 25 of this chapter;
(2) Any mortgagee that has a known or recorded substantial property interest in the unsafe premises, in the manner prescribed by section 25 of this chapter;
(3) If no petition is filed under subsection (c), the clerk of the circuit court shall enter a judgment for the amounts recorded or for modified amounts.

(d) If no petition is filed under subsection (c), the clerk of the circuit court shall enter a judgment for the amounts stated in the record.

(e) A judgment under subsection (c) or (d), to the extent that it is not satisfied under IC 27-2-1.5, is a debt and a lien on all the real and personal property of the person named in the record prepared under subsection (a). The lien on real property is perfected against all creditors and purchasers when the judgment is entered on the judgment docket of the court. The lien on personal property is perfected by filing a lis pendens notice in the appropriate filing office, as prescribed by the Indiana Rules of Trial Procedure.

(f) Judgments rendered under this section may be enforced in the same manner as all other judgments are enforced.

SECTION 65. IC 36-7-9-13.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) This section does not apply to the collection of an amount if a court determines under section 13 of this chapter that the enforcement authority is not entitled to the amount.

(b) If all or any part of the costs listed in section 12 of this chapter remain unpaid for any unsafe premises (other than unsafe premises owned by a governmental entity) for more than fifteen (15) days after completion of the work, the enforcement authority may send notice under section 25 of this chapter to each person who held a known or recorded fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises. If the notice is sent, the enforcement authority shall also send notice to any mortgagee with a known or recorded substantial property interest. The notice must require full payment of the amount owed within thirty (30) days.

(c) If full payment of the amount owed is not made less than thirty (30) days after the notice is delivered, the enforcement officer may certify the following information to the county auditor:

(1) The name of each person who held a known or recorded fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises.
(2) The description of the unsafe premises, as shown by the records of the county auditor.
(3) The amount of the delinquent payment, including all costs described in section 12 of this chapter.

(d) The county auditor shall place the total amount certified under subsection (c) on the tax duplicate for the affected property as a special assessment. The total amount, including accrued interest, shall be collected as delinquent taxes are collected.

(e) An amount collected under subsection (d), after all other taxes have been collected and disbursed, shall be disbursed to the unsafe building fund.

(f) A judgment entered under section 13, 19, 21, or 22 of this chapter may be certified to the auditor and collected under this section. However, a judgment lien need not be obtained under section 13 of this chapter before a debt is certified under this section.

SECTION 66. IC 36-7-9-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) The enforcement authority shall establish in its operating budget a fund designated as the unsafe building fund. Any balance remaining at the end of a fiscal year shall be carried over in the fund for the following year and does not revert to the general fund.

(b) Money for the unsafe building fund may be received from any source, including appropriations by local, state, or federal governments, and donations. The following money shall be deposited in the fund:

1. Money received as payment for or settlement of obligations or judgments established under sections 9 through 13 and 17 through 22 of this chapter.

2. Money received from bonds posted under section 7 of this chapter.

3. Money received in satisfaction of receivers' notes or certificates that were issued under section 20 of this chapter and were purchased with money from the unsafe building fund.

4. Money received for payment or settlement of civil penalties or fines imposed under section 7 of this chapter.

5. Money received from the collection of special assessments under section 13.5 of this chapter.

(c) Money in the unsafe building fund may be used for the expenses incurred in carrying out the purposes of this chapter, including:

1. The cost of obtaining reliable information about the identity and location of each person who owns a substantial property interest in unsafe premises;

2. The cost of an examination of an unsafe building by a registered architect or registered engineer not employed by the department;

3. The cost of surveys necessary to determine the location and dimensions of real property on which an unsafe building is located;

4. The cost of giving notice of orders, notice of statements of rescission, notice of continued hearing, and notice of statements that public bids are to be let in the manner prescribed by section 25 of this chapter;

5. The bid price of work by a contractor under section 10 or sections 17 through 22 of this chapter;

6. The cost of emergency action under section 9 of this chapter; and

7. The cost of notes or receivers' certificates issued under section 20 of this chapter.

(d) Payment of money from the unsafe building fund must be made in accordance with applicable law.

SECTION 67. IC 36-7-9-18.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 18.1. (a) A court acting under section 17 of this chapter may condition the granting of a period of time to accomplish the action required by an order on the posting of a performance bond that will be forfeited if the action required by the order is not completed within the period the court allows. Before granting a period of time that is conditioned on the posting of a bond, the court may require that the requesting person justify the request with a workable and financially supported plan. If the court determines that a significant amount of work must be accomplished to comply with the order, the court may require that the bond specify interim completion standards and provide that the bond is forfeited if any of these interim completion standards are not substantially met.

(b) An amount collected under subsection (a) on a forfeited bond shall be deposited in the unsafe building fund.

SECTION 68. IC 36-7-9-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 19. (a) A court acting under section 17 of this chapter may impose a civil forfeiture penalty not to exceed one five thousand dollars ($1,000) against any person if the conditions of section 18 of this chapter are met. The forfeiture penalty imposed may not be substantially less than the cost of complying with the order, unless that cost does not exceed one five hundred dollars ($500).

(b) The court may order the forfeiture penalty reduced or stricken if it is satisfied that all work necessary to fully comply with the order has been done.

(b) On request of the enforcement authority the court shall enter a judgment in the amount of the forfeiture penalty. If there is more than one (1) party defendant, the forfeiture penalty is separately applicable to each defendant. The amount of a forfeiture penalty that is collected shall be deposited in the unsafe building fund.

SECTION 69. IC 36-7-9-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 25. (a) Notice of orders, notice of continued hearings without a specified date, notice of a statement that public bids are to be let, and notice of claims for payment must be given by:

1. Sending a copy of the order or statement by registered or certified mail to the residence or place of business or employment of the person to be notified, with return receipt requested;

2. Delivering a copy of the order or statement personally to the person to be notified;

3. Leaving a copy of the order or statement at the dwelling or usual place of abode of the person to be notified and sending by first class mail a copy of the order or statement to the last known address of the person to be notified.

(b) If after a reasonable effort, service is not obtained by a means described in subsection (a) and the hearing authority concludes that a reasonable effort has been made to obtain service, service may be made by publishing a notice of the order or statement in accordance with IC 5-3-1 in the county where the unsafe premises are located. However, publication may be made on consecutive days. If service of an order is made by publication, the publication must include the information required by subdivisions (1), (2), (4), (5), (6), (7), and (9) of section 5(b) of this chapter, and must also include a statement indicating generally what action is required by the order and that the exact terms of the order may be obtained from the enforcement authority. The hearing authority may make a determination about whether a reasonable effort has been made to obtain service by the means described in subsection (a) on the basis of information provided by the department (or, in the case of a consolidated city, the enforcement authority). The hearing authority is not required to make the determination at a hearing. The hearing authority must make the determination in writing. When service is made by any of the means described in this section, except by mailing or by publication, the person making service must make an affidavit stating that he has made the service, the manner in which service was made, to whom the order or statement was issued, the nature of the order or statement, and the date of service. The affidavit must be placed on file with the enforcement authority.

(d) The date when notice of the order or statement is considered given is as follows:

1. If the order or statement is delivered personally or left at the dwelling or usual place of abode, notice is considered given on the day when the order or statement is delivered to the person or left at his the person's dwelling or usual place of abode.

2. If the order or statement is mailed, notice is considered given on the date it is placed on the return receipt, or, if no date is shown, on the date when the return receipt is received by the enforcement authority.

3. Notice by publication is considered given on the date of the second day that publication was made.

(e) Notice of orders, notice of continued hearings without a
Section 22.5. As used in this section, “offering price” means the appraised value of real property plus all costs associated with the sale, including:

(a) appraisal fees;
(b) title insurance;
(c) recording fees; and
(d) advertising costs.

If the assessed value of a tract of real property to be sold is less than fifteen thousand dollars ($15,000), based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired, the commission may proceed under this section.

(d) The commission may determine that:

(1) the highest and best use of the tract is sale to an abutting landowner;
(2) the cost to the public of maintaining the tract equals or exceeds the estimated fair market value of the tract; or
(3) it is economically unjustifiable to sell the tract under section 22 of this chapter.

(e) Not more than ten (10) days after the commission makes a determination under subsection (d), the commission shall publish a notice in accordance with IC 5-3-1 identifying the tracts intended for sale by legal description and, if possible, by key number and street address. The notice must also include the offering price and a statement that:

(1) the property may not be sold to a person who is ineligible under IC 36-1-11-16; and
(2) an offer to purchase the property submitted by a trust (as defined in IC 36-4-1-1(a)) must identify each:
   (A) beneficiary of the trust; and
   (B) settlor empowered to revoke or modify the trust.

At the time of publication of notice under this subsection, the commission shall send notice by certified mail to all abutting landowners. This notice shall contain the same information as the published notice.

(f) The commission shall also have each tract appraised. The appraiser must be a person who is professionally engaged in making appraisals, a person licensed under IC 25-34.1, or an employee of the political subdivision who is familiar with the value of the tract. However, if the assessed value of a tract is less than six thousand dollars ($6,000), based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired, the commission is not required to have the tract appraised.

(g) If, not more than ten (10) days after the date of publication of the notice under subsection (e), the commission receives one (1) or more eligible offers to purchase a tract listed in the notice at or in excess of the offering price, the commission shall conduct the negotiation and sale of the tract under section 22(f), 22(g), and 22(i) of this chapter.
(h) Notwithstanding subsection (g), if not more than ten (10) days after the date of publication of the notice under subsection (e) the commission does not receive from any person other than an abutting landowner an eligible offer to purchase the tract at or in excess of the offering price, the commission shall conduct the negotiation and sale of the tract as follows:

(1) If only one (1) eligible abutting landowner makes an eligible offer to purchase the tract, the commission may proceed under IC 36-1-11-16 and without further appraisal or notice, the commission shall offer to negotiate the sale of the tract with that abutting landowner.

(2) If more than one (1) eligible abutting landowner submits an eligible offer to purchase the tract, the tract shall be sold to the eligible abutting landowner who submits the highest eligible offer for the tract and who complies with any requirement under subsection (e)(2).

(3) If no eligible abutting landowner submits an eligible offer to purchase the tract, the commission may sell the tract to any person who submits the highest eligible offer for the tract, except a person who is ineligible to purchase the tract under IC 36-1-11-16.

SECTION 72. IC 36-7-14-22.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 22.7. (a) The commission may dispose of real property to which section 22.5 of this chapter applies by following the procedure set forth in this section.

(b) The commission shall first have the property appraised by two (2) appraisers. The appraisers must be:

(1) persons who are professionally engaged in making appraisals;

(2) persons who are licensed under IC 25-34.1; or

(3) employees of the political subdivision familiar with the value of the property.

The appraisers shall make a joint appraisal of the property.

(c) The commission may:

(1) negotiate a sale or transfer; and

(2) dispose of the property;

at a value that is not less than the appraised value determined under subsection (b).

(d) Disposal of real property under this chapter is subject to the approval of the commission. The commission may not approve a disposal of property without conducting a public hearing after giving notice under IC 5-3-1.

(e) In addition to any other reason for disapproving a disposal of property under this section, the commission may disapprove a sale of a tract of residential property to any bidder who does not by affidavit declare that the bidder will reside on that property for at least one (1) year after the bidder obtains possession of the property.

SECTION 73. IC 36-7-15.1-15.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15.5. (a) This section applies to the following:

(1) Real property:

(A) that was acquired by the commission to carry out a redevelopment project, an economic development area project, or an urban renewal project; and

(B) relative to which the commission has, at a public hearing, decided that the real property is not needed to complete the redevelopment activity, an economic development area activity, or urban renewal activity in the project area.

(2) Real property acquired under this chapter that is not in a redevelopment project area, an economic development area, or an urban renewal project area.

(3) Parcels of property secured from the county under IC 6-1-1-25-9(e) that were acquired by the county under IC 6-1-1-24 and IC 6-1-1-25.

(4) Real property donated or transferred to the commission to be held and disposed of under this section.

However, this section does not apply to property acquired under section 22.5 of this chapter.

(b) The commission may do the following to or for real property described in subsection (a):

(1) Examine, classify, manage, protect, insure, and maintain the property.

(2) Eliminate deficiencies (including environmental deficiencies), carry out repairs, remove structures, and make improvements.

(3) Control the use of the property.

(4) Lease the property.

(5) Use any powers under section 7(a) or 7(b) of this chapter in relation to the property.

(c) The commission may enter into contracts to carry out part or all of the functions described in subsection (b).

(d) The commission may extinguish all delinquent taxes, special assessments, and penalties relative to real property donated to the commission to be held and disposed of under this section. The commission shall provide the county auditor with a list of the real property on which delinquent taxes, special assessments, and penalties are extinguished under this subsection.

(e) Real property described in subsection (a) may be sold, exchanged, transferred, granted, donated, or otherwise disposed of in any of the following ways:

(1) In accordance with section 15, 15.1, 15.2, 15.6, or 15.7 of this chapter.

(2) In accordance with the provisions authorizing an urban homesteading program under IC 36-7-17.

(3) In disposing of real property under subsection (e), the commission may:

(1) group together properties for disposition in a manner that will best serve the interest of the community, from the standpoint of both human and economic welfare; and

(2) group together nearby or similar properties to facilitate convenient disposition.

SECTION 74. IC 36-7-15.1-15.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15.6. (a) As used in this section, "abutting landowner" means an owner of property that:

(1) touches, borders on, or is contiguous to the property that is the subject of sale; and

(2) does not constitute a:

(A) public easement; or

(B) public right-of-way.

(b) As used in this section, "offering price" means the appraised value of real property plus all costs associated with the sale, including:

(1) appraisal fees;

(2) title insurance;

(3) recording fees; and

(4) advertising costs.

(c) If the assessed value of a tract of real property to be sold is less than fifteen thousand dollars ($15,000), based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired, the commission may proceed under this section.

(d) The commission may determine that:

(1) the highest and best use of the tract is sale to an abutting landowner;

(2) the cost to the public of maintaining the tract equals or exceeds the estimated fair market value of the tract; or

(3) it is economically unjustifiable to sell the tract under section 15 of this chapter.

(e) Not more than ten (10) days after the commission makes a determination under subsection (d), the commission shall publish a notice in accordance with IC 5-3-1 identifying the tracts intended for sale by legal description and, if possible, by key number and street address. The notice must also include the offering price and a statement that:

(1) the property may not be sold to a person who is ineligible under IC 36-1-11-16; and

(2) an offer to purchase the property submitted by a trust (as defined in IC 36-4-1-1(a)) must identify each:

(A) beneficiary of the trust; and

(B) settlor empowered to revoke or modify the trust.

At the time of publication of notice under this subsection, the commission shall send notice by certified mail to all abutting landowners. This notice shall contain the same information as
The appraiser shall make a joint appraisal of the property.

(p) The purposes of this chapter one hundred twenty (120) days after the date acquire the deed for real property purchased at tax sale for the purposes of this chapter, for use as provided in this chapter.

(q) The appraiser shall conduct the negotiation and sale of the tract under section 15(f), 15(g), and 15(i) of this chapter.

(b) The commission may: (1) If only one (1) eligible abutting landowner makes an eligible offer to purchase the tract, then subject to IC 36-1-11-16 and without further appraisal or notice, the commission shall offer to negotiate for the sale of the tract with that abutting landowner.

(c) The commission shall first have the property appraised by two (2) appraisers. The appraisers must be: (1) persons professionally engaged in making appraisals; (2) persons licensed under IC 25-34.1; or (3) employees of the political subdivision familiar with the value of the property.

The appraisers shall make a joint appraisal of the property.

(c) The commission may: (1) negotiate a sale or transfer; and (2) dispose of the property; at a value that is not less than the appraised value determined under subsection (b).

(d) Disposal of real property under this chapter is subject to the approval of the commission. The commission may not approve a disposal of property without conducting a public hearing after giving notice under IC 5-3-1.

(e) In addition to any other reason for disapproving a disposal of property under this section, the commission may disapprove a sale of a tract of residential property to any bidder who does not by affidavit declare that the bidder will reside on that property for at least one (1) year after the bidder obtains possession of the property.

SECTION 76. IC 36-7-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The agency designated or established in section 2 of this chapter may acquire real property in the name of the unit, for use as provided in this chapter.

(b) Under IC 6-1.1-24-4.5, the county auditor shall provide a list of real property on which one (1) or more installments of taxes are delinquent.

(c) Under IC 6-1.1-25-1 and IC 6-1.1-25-4, the agency may acquire the deed for real property purchased at tax sale for the purposes of this chapter one hundred twenty (120) days after the date of sale, after compliance with the notice provisions of IC 6-1.1-25-4.5.

(d) Under IC 6-1.1-24-6.5, the agency may acquire the deed for real property that was offered for sale but for which an adequate bid under IC 6-1.1-24-5(e) was not received by identifying the properties that the agency desires to acquire for urban homesteading or redevelopment purposes.

(e) Under IC 6-1.1-25-7.5, the agency may acquire the deed for real property for which the holder of the certificate of sale has failed to request that the county auditor execute and deliver a deed within one hundred twenty (120) days after issuance of the certificate.

(f) The agency may acquire real property acquired through tax sale for the purposes of this chapter, if in addition to real property purchased at tax sale for the purposes of this chapter, the agency may acquire real property by purchase or gift.

SECTION 77. IC 36-7-17-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. (a) A property for which no one applies in two (2) successive drawings held under this chapter may be sold at public auction to the highest bidder.

(b) The proceeds of the sale of real property acquired under IC 6-1.1-24-6.5 or IC 6-1.1-25-7.5 shall be applied to the cost of the sale, including advertising and appraisal.

(c) If any proceeds remain after payment of the costs under subsection (b), the proceeds shall be applied to the payment of taxes remitted from the tax duplicate under IC 6-1.1-24-6.5(e) or IC 6-1.1-25-7.5(e).

(d) If any proceeds remain after payment of the taxes under subsection (c), the proceeds shall be deposited in the county general fund.

SECTION 78. IC 36-8-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) A majority of the members of the safety board constitutes a quorum. The board shall adopt rules concerning the time of holding regular and special meetings and of giving notice of them. The board shall elect one (1) of its members chairman, who holds the position as long as prescribed by the rules of the board. The board shall record all of its proceedings.

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

(c) The safety board shall appoint: (1) the members and other employees of the police department other than those in an upper level policymaking position; (2) the members and other employees of the fire department other than those in an upper level policymaking position; (3) a market master; and (4) other officials that are necessary for public safety purposes.

(d) The annual compensation of all members of the police and fire departments and other appointees shall be fixed by ordinance of the legislative body before September 20 for a second class city; and September 20 for a third class city; not later than September 30 of each year for the ensuing budget year. The ordinance may increase the number of members of the board and regulate their pay by rank as well as by length of service. If the legislative body fails to adopt an ordinance fixing the compensation of members of the police or fire department, the safety board may fix their compensation, subject to change by ordinance.

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

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

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

SECTION 79. IC 36-9-3-5, AS AMENDED BY P.L.114-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS...
[EFFECTIVE UPON PASSAGE]: Sec. 5. (a) An authority is under the control of a board (referred to as "the board" in this chapter) that, except as provided in subsections (b) and (c), consists of:

1. Two (2) members appointed by the executive of each county in the authority;
2. One (1) member appointed by the executive of the largest municipality in each county in the authority;
3. One (1) member appointed by the executive of each second class city in a county in the authority; and
4. One (1) member from any other political subdivision that has public transportation responsibilities in a county in the authority.

(b) An authority that includes a consolidated city is under the control of a board consisting of the following:

1. Two (2) members appointed by the executive of the county having the consolidated city.
2. One (1) member appointed by the board of commissioners of the county having the consolidated city.
3. One (1) member appointed by the executive of each other county in the authority.
4. Two (2) members appointed by the governor from a list of at least five (5) names provided by the Indianapolis regional transportation council.

5. One (1) member representing the four (4) largest municipalities in the authority located in a county other than a county containing a consolidated city. The member shall be appointed by the executives of the municipalities acting jointly. The member shall be appointed by the executives of the excluded cities located in a county containing a consolidated city that are members of the authority. The member shall be appointed by the executives of the excluded cities acting jointly.
7. One (1) member of a labor organization represented by the employees of the authority who provide public transportation services within the geographic jurisdiction of the authority. The labor organization shall appoint the member.

(c) An authority that includes a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), is under the control of a board consisting of the following:

1. Three (3) members appointed by the executive of a city with a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).
2. Two (2) members appointed by the executive of a city with a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).
3. One (1) member appointed by the executive of a city with a population of more than one hundred forty-eight thousand (148,000), appointed by the board of commissioners, or the executive's designee.

4. One (1) member who is jointly appointed by the fiscal body of the following municipalities located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):
   A. A city with a population of more than five thousand one hundred thirty-five thousand (135) but less than five thousand two hundred (5,200).
   B. A city with a population of more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800).

5. One (1) member who is jointly appointed by the fiscal body of the following municipalities located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):
   A. A town with a population of more than fifteen thousand (15,000) but less than twenty thousand (20,000).
   B. A town with a population of more than twenty-three thousand (23,000) but less than twenty-four thousand (24,000).
   C. A town with a population of more than twenty thousand (20,000) but less than twenty-three thousand (23,000).

6. One (1) member who is jointly appointed by the following authorities of municipalities located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):
   A. The executive of a city with a population of more than nineteen thousand eight hundred (19,800) but less than twenty-one thousand (21,000).
   B. The fiscal body of a town with a population of more than nine thousand (9,000) but less than twelve thousand (12,000).
   C. The fiscal body of a town with a population of more than five thousand (5,000) but less than eight thousand (8,000).
   D. The fiscal body of a town with a population of less than one thousand (1,000).
   E. The fiscal body of a town with a population of more than two thousand two hundred (2,200) but less than five thousand (5,000).

7. One (1) member appointed by the fiscal body of a town with a population of more than thirty thousand (30,000) located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).
8. One (1) member who is jointly appointed by the following authorities of municipalities that are located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):
   A. The executive of a city having a population of more than twenty-five thousand (25,000) but less than twenty-seven thousand (27,000).
   B. The executive of a city having a population of more than thirteen thousand nine hundred (13,900) but less than fourteen thousand two hundred (14,200).
   C. The fiscal body of a town having a population of more than one thousand five hundred (1,500) but less than two thousand two hundred (2,200).
9. Three (3) members appointed by the fiscal body of a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).
10. One (1) member appointed by the county executive of a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).
11. One (1) member of a labor organization representing employees of the authority who provide public transportation services within the geographic jurisdiction of the authority. The labor organization shall appoint the member. If more than one labor organization represents the employees of the authority, each organization shall submit one (1) name to the governor, and the governor shall appoint the member from the list of names submitted by the organizations.
12. The executive of a city with a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-eight thousand (28,000), located within a county with a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), or the executive's designee.
13. The executive of a city with a population of more than thirty-three thousand (33,000) but less than thirty-six thousand (36,000), located within a county with a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), or the executive's designee.
14. One (1) member of the board of commissioners of a county with a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), appointed by the board of commissioners, or the member's designee.
15. One (1) member appointed jointly by the township executive of the township containing the following towns:
   A. Chesterton.
the member appointed under this subdivision must be a resident of a township listed in this subdivision.

(16) One (1) member appointed jointly by the township executives of the following townships located in Porter County:

(A) Washington Township.
(B) Morgan Township.
(C) Pleasant Township.
(D) Boone Township.
(E) Union Township.
(F) Porter Township.
(G) Jackson Township.
(H) Liberty Township.
(I) Pine Township.

The member appointed under this subdivision must be a resident of a township listed in this subdivision.

SEC. 5. (a) A municipality may adopt an ordinance establishing a sewer improvement and extension fund to finance the construction, repair, extension, or improvement of a sewage works.

(b) A fund consists of the following:

(1) A special assessment imposed and collected under section 7 of this chapter. However, a special assessment imposed and collected under any other statute may not be deposited in the fund.

(2) An appropriation to the fund, including an appropriation made from taxes levied by a municipal legislative body for the construction, repair, extension, or improvement of a sewage works.

Sec. 6. (a) The legislative body of a municipality that establishes a fund may appropriate money from the municipal general fund and transfer the money to the fund.

(b) During the fiscal year in which a municipality establishes a fund, the legislative body of the municipality may make an emergency appropriation from the municipal general fund and transfer the money to the fund.

Sec. 7. (a) A board may adopt an ordinance or a resolution to appropriate money from funds under the board's control to pay for all or part of the cost of the construction, repair, extension, or improvement of a sewage works.

(b) Any costs not paid under subsection (a) must be paid by:

(1) an assessment imposed under subsection (c) against the benefited properties; or

(2) a contract under IC 36-9-22.

Any interest or penalties attributable to an assessment under this section must be deposited in the fund.

(c) The board may adopt a resolution to impose an assessment to finance the construction, repair, extension, or improvement of a sewage works. The assessment must be imposed and collected as provided by the street and sewer improvement statutes.

Sec. 8. (a) A contract for the construction, repair, extension, or improvement of a sewage works is subject to the statutes authorizing municipalities to make and finance public improvements.

(b) Upon awarding a contract for the construction, repair, extension, or improvement of a sewage works under this chapter, a board shall:

(1) carefully compute the entire cost of the construction, repair, extension, or improvement, including payments to the contractor and all incidental costs, expenses, and damages paid and incurred according to law; and

(2) prepare and make out an assessment roll listing the assessments against the properties benefited.

In determining and fixing the amount of assessments, the giving of notices of assessments, the holding of public hearings, and the making of final determinations, subject to the right of appeal from those determinations, the board is governed by the street and sewer improvement statutes.

(c) An assessment under this chapter is a lien against the benefited property from the time of the letting of the contract and shall be collected in the manner provided for collection of Barrett Law assessments.

(d) The board shall fix a period of not more than twenty (20) years within which the assessments shall be paid.

(e) A property owner liable for an assessment may execute a waiver in the manner provided by the street and sewer improvement statutes to pay the assessment in annual installments over a period fixed by the board.

(f) All payments under this chapter are deposited into the fund.

SEC. 83. THE FOLLOWING ARE REPEALED [EFFEC TIVE JANUARY 1, 2007]: IC 6-1.1-24-4.1; IC 6-1.1-24-5.5; IC 6-1.1-24-6.5.

SEC. 84. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 12-20-21-4; IC 12-20-23; IC 12-20-24-2; IC 12-20-24-3; IC 12-20-24-4.

SECTION 85. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "member" refers to a person appointed under subsection (c)(3) or (c)(4) or to a legislator whose district includes all or part of Lake County, Porter County, LaPorte County, St. Joseph County, or Elkhart County.

(b) The northwest Indiana transportation study commission is established.

(c) The commission consists of fourteen (14) voting members appointed as follows:
(1) Six (6) members of the senate, not more than three (3) of whom may be members of the same political party, appointed by the president pro tempore of the senate.
(2) Six (6) members of the house of representatives, not more than three (3) of whom may be members of the same political party, appointed by the speaker of the house of representatives.
(3) One (1) individual who is not a legislator, appointed by the northwestern Indiana regional planning commission.
(4) One (1) individual who is not a legislator, appointed by the Michiana Area Council of Governments.

(d) The chairman of the legislative council shall select one (1) member of the commission to serve as chairperson of the commission, and the vice chairman of the legislative council shall select one (1) member of the commission to serve as vice chairperson of the commission.

(e) The commission shall:
(1) monitor the development of commuter transportation and rail service in the Lowell-Chicago and Valparaiso-Chicago corridors;
(2) study all aspects of regional mass transportation and road and highway needs in Lake County, Porter County, LaPorte County, St. Joseph County, and Elkhart County;
(3) study northwest Indiana transportation, infrastructure, and economic development issues; and
(4) study other topics as assigned by the legislative council.

(f) The commission shall submit a final report of the commission's findings and recommendations to the legislative council before November 1, 2009. The report must be in an electronic format under IC 5-14-6.

(g) The commission shall operate under the rules of the legislative council.

(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.

(Reference is to EHB 1102 as reprinted February 28, 2006, and as corrected under Senate rule 33(c) adopted March 1, 2006.)

AYRES C. LAWSON
STEVENSON LEWIS
House Conference Senate Conference

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

CONFEREE COMMITTEE REPORT
EHB 1323–1; filed March 13, 2006, at 2:50 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 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 9-20-5-4, 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.
(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.
(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) "Bundled transaction" means a retail sale of two (2) or more products, except real property and services to real property, that are:
(1) distinct;
(2) identifiable; and
(3) sold for one (1) nonitemized price.

(c) The term does not include a retail sale in which the sales price of a product varies, or is negotiable, based on other products that the purchaser selects for inclusion in the transaction.

(d) The term does not include a retail sale that:
(1) is comprised of:
(A) a service that is the true object of the transaction; and

CONFEREE COMMITTEE REPORT
ESB 258–1; filed March 13, 2006, at 3:24 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 258 respectfully reports that said two committee have conferred and agreed as follows to wit:
that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:
Delete the title and insert the following:
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-2-5-1-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11.5. (a) This section applies to retail transactions occurring after December 31, 2007.

(b) "Bundled transaction" means a retail sale of two (2) or more products, except real property and services to real property, that are:
(1) distinct;
(2) identifiable; and
(3) sold for one (1) nonitemized price.

(c) The term does not include a retail sale in which the sales price of a product varies, or is negotiable, based on other products that the purchaser selects for inclusion in the transaction.

(d) The term does not include a retail sale that:
(1) is comprised of:
(A) a service that is the true object of the transaction; and
(B) tangible personal property that:
  (i) is essential to the use of the service; and
  (ii) is provided exclusively in connection with the service;
(2) includes both taxable and nontaxable products in which:
  (A) the seller's purchase price; or
  (B) the sales price;
  of the taxable products does not exceed ten percent (10%) of the total purchase price or the total sales price of the bundled products; or
(3) includes both exempt tangible personal property and taxable tangible personal property:
  (A) any of which is classified as:
    (i) food and food ingredients;
    (ii) drugs;
    (iii) durable medical equipment;
    (iv) mobility enhancing equipment;
    (v) over-the-counter drugs;
    (vi) prosthetic devices; or
    (vii) medical supplies; and
  (B) for which:
    (i) the seller's purchase price; or
    (ii) the sales price:
    of the taxable tangible personal property is fifty percent (50%) or less of the total purchase price or the total sales price of the bundled tangible personal property.

The determination under clause (B) must be made on the basis of either individual item purchase prices or individual item sale prices.

SECTION 2. IC 6-2.5-1-16.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16.5. (a) "Direct mail" means printed material delivered by United States mail or another delivery service to:
  (1) a mass audience; or
  (2) addresses on a mailing list:
    (A) provided by a purchaser; or
    (B) specified at the direction of a purchaser;
  if the cost of the item is not billed directly to the recipient.

(b) The term includes tangible personal property that the purchaser supplies directly or indirectly to the direct mail seller for inclusion in the package containing the printed material.

(c) The term does not include multiple items of printed material delivered to a single address.

SECTION 3. IC 6-2.5-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 20. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and that are consumed for their taste or nutritional value. The term does not include alcoholic beverages, candy, dietary supplements, tobacco products, or soft drinks.

SECTION 4. IC 6-2.5-4-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. (a) This section applies to retail transactions occurring after December 31, 2007.

(b) A person is a retail merchant making a retail transaction when the person sells tangible personal property as part of a bundled transaction.

SECTION 5. IC 6-2.5-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Except as otherwise provided in this section, each person liable for collecting the state gross retail or use tax shall file a return for each calendar month and pay the state gross retail and use taxes that the person collects during that month. A person shall file the person's return for a particular month with the department and make the person's tax payment for that month to the department not more than thirty (30) days after the end of that month, if that person's average monthly liability for collections of state gross retail and use taxes under this section as determined by the department for the preceding calendar year did not exceed one thousand dollars ($1,000). If a person's average monthly liability for collections of state gross retail and use taxes under this section as determined by the department for the preceding calendar year exceeded one thousand dollars ($1,000), that person shall file the person's return for a particular month and make the person's tax payment for that month to the department not more than twenty (20) days after the end of that month.

(b) If a person files a combined sales and withholding tax report and either this section or IC 6-3-4-8.1 requires sales or withholding tax reports to be filed and remittances to be made within twenty (20) days after the end of each month, then the person shall file the combined report and remit the sales and withholding taxes due within twenty (20) days after the end of each month.

(c) Instead of the twelve (12) monthly reporting periods required by subsection (a), the department may permit a person to divide a year into a different number of reporting periods. The return and payment for each reporting period is due not more than twenty (20) days after the end of the period.

(d) Instead of the reporting periods required under subsection (a), the department may permit a retail merchant to report and pay the merchant's state gross retail and use taxes for a period covering:
  (1) a calendar year, if the retail merchant's average monthly state gross retail and use tax liability in the previous calendar year does not exceed ten dollars ($10);
  (2) a calendar half year, if the retail merchant's average monthly state gross retail and use tax liability in the previous calendar year does not exceed twenty-five dollars ($25);
  (3) a calendar quarter, if the retail merchant's average monthly state gross retail and use tax liability in the previous calendar year does not exceed seventy-five dollars ($75).

A retail merchant using a reporting period allowed under this subsection must file the merchant's return and pay the merchant's tax for a reporting period not later than the last day of the month immediately following the close of that reporting period.

(e) If a retail merchant reports the merchant's adjusted gross income tax, or the tax the merchant pays in place of the adjusted gross income tax, over a fiscal year or fiscal quarter not corresponding to the calendar year or calendar quarter, the merchant may, without prior departmental approval, report and pay the merchant's state gross retail and use taxes over the merchant's fiscal period that corresponds to the calendar period the merchant is permitted to use under subsection (d).

However, the department may, at any time, require the retail merchant to stop using the fiscal reporting period.

(f) If a retail merchant files a combined sales and withholding tax report, the reporting period for the combined report is the shortest period required under:
  (1) this section;
  (2) IC 6-3-4-8; or
  (3) IC 6-3-4-8.1.

(g) If the department determines that a person's:
  (1) estimated monthly gross retail and use tax liability for the current year; or
  (2) average monthly gross retail and use tax liability for the preceding year;

exceeds ten thousand dollars ($10,000), the person shall pay the monthly gross retail and use taxes due by electronic funds transfer (as defined in IC 4-8-1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

(h) If a person's gross retail and use tax payment is made by electronic funds transfer, the taxpayer is not required to file a monthly gross retail and use tax return. However, the person shall file a quarterly gross retail and use tax return before the twentieth day after the end of each calendar quarter.

(i) A person:
  (1) who has voluntarily registered as a seller under the Streamlined Sales and Use Tax Agreement;
  (2) who is not a Model 1, Model 2, or Model 3 seller (as defined in the Streamlined Sales and Use Tax Agreement); and
  (3) whose liability for collections of state gross retail and use taxes under this section for the preceding calendar year as determined by the department does not exceed one thousand dollars ($1,000);

is not required to file a monthly gross retail and use tax return.

SECTION 6. IC 6-2.5-13-1 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) As used in this section, the terms "receive" and "receipt" mean:

(1) taking possession of tangible personal property;
(2) making first use of services; or
(3) taking possession or making first use of digital goods; whichever comes first. The terms "receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser.

(b) This section:

(1) applies regardless of the characterization of a product as tangible personal property, a digital good, or a service;
(2) applies only to the determination of a seller's obligation to pay or collect and remit a sales or use tax with respect to the seller's retail sale of a product; and
(3) does not affect the obligation of a purchaser or lessee to remit tax on the use of the product to the taxing jurisdictions of that use.

(c) This section does not apply to sales or use taxes levied on the following:

(1) The retail sale or transfer of watercraft, modular homes, manufactured homes, or mobile homes. These items must be sourced according to the requirements of this article.
(2) The retail sale, excluding lease or rental, of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment, as defined in subsection (g). The retail sale of these items shall be sourced according to the requirements of this article, and the lease or rental of these items must be sourced according to subsection (f).
(3) Telecommunications services, as set forth in IC 6-2.5-12, shall be sourced in accordance with IC 6-2.5-12.
(d) The retail sale, excluding lease or rental, of a product shall be sourced as follows:

(1) When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location.
(2) When the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser (or the purchaser's donee, designated as such by the purchaser) occurs, including the location indicated by instructions for delivery to the purchaser (or donee), known to the seller.
(3) When subdivisions (1) and (2) do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.
(4) When subdivisions (1), (2), and (3) do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.
(5) When none of the previous rules of subdivision (1), (2), (3), or (4) apply, including the circumstance in which the seller is without sufficient information to apply the previous rules, then the location will be determined by the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically was first available for transmission by the seller, or from which the service was provided (disregarding for these purposes any location that merely provided the digital transfer of the product sold).
(e) The lease or rental of tangible personal property, other than property identified in subsection (f) or (g), shall be sourced as follows:

(1) For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with the provisions of subsection (d). Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.
(2) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsection (d).

This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or an accelerated basis, or on the acquisition of property for lease.

(f) The lease or rental of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment, as defined in subsection (g), shall be sourced as follows:

(1) For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. This location shall not be altered by intermittent use at different locations.
(2) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsection (d).

This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

(g) The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with the provisions of subsection (d), notwithstanding the exclusion of lease or rental in subsection (d). As used in this subsection, "transportation equipment" means any of the following:

(1) Locomotives and railcars that are used for the carriage of persons or property in interstate commerce.
(2) Trucks and truck-tractors with a gross vehicle weight rating (GVWR) of ten thousand one (10,001) pounds or greater, trailers, semitrailers, or passenger buses that are:
   (A) registered through the International Registration Plan; and
   (B) operated under authority of a carrier authorized and certified by the U.S. Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.
(3) Aircraft that are operated by air carriers authorized and certified by the U.S. Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce.
(4) Containers designed for use on and component parts attached or secured on the items set forth in subdivisions (1) through (3).

(h) This subsection applies to retail sales of floral products that occur before January 1, 2008. Notwithstanding subsection (d), a retail sale of floral products in which a florist or floral business:

(1) takes a floral order from a purchaser; and
(2) transmits the floral order by telegraph, telephone, or other means of communication to another florist or floral business for delivery;

is sourced to the location of the florist or floral business that originally took the floral order from the purchaser.

SECTION 7. An emergency is declared for this act.
(Reference is to ESB 258 as printed February 17, 2006.)

KENLEY ESPICH
HUME KUZMAN
Senate Conferees House Conferees

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

CONFERENCE COMMITTEE REPORT
ESB 193–1; filed March 13, 2006, at 3:26 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 193 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 5-2-6-18 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 18. (a) As used in this section, "institute" means the Indiana criminal justice institute established by section 3 of this chapter.

(b) The institute shall adopt:
   (1) guidelines; and
   (2) a reporting form or a specified electronic format, or both;
   for the report of methamphetamine abuse by a law enforcement agency under IC 5-2-16.

(c) The guidelines adopted under this section must require a law enforcement agency to report the existence of methamphetamine abuse to the institute on the form or in the specified electronic format adopted by the institute.

(d) The guidelines adopted under this section:
   (1) may incorporate a recommendation of the methamphetamine abuse task force (IC 5-2-14) that the institute determines to be relevant;
   (2) may require the institute to report the information concerning methamphetamine abuse to one (1) or more additional agencies or organizations;
   (3) must require the institute to maintain reports filed under IC 5-2-16 in a manner that permits an accurate assessment of methamphetamine abuse in Indiana; and
   (4) must require a law enforcement agency to report any other information that the institute determines to be relevant.

SECTION 2. IC 5-2-15-4, AS ADDED BY P.L.192-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. A law enforcement agency that discovers a child less than fourteen (14) or eighteen (18) years of age at a methamphetamine laboratory site used for the illegal manufacture of a controlled substance (as defined in IC 35-48-1-9) shall notify the division of family and children's department of child services.

SECTION 3. IC 5-2-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 16. Methamphetamine Abuse Reporting
Sec. 1. As used in this chapter, "law enforcement agency" has the meaning set forth in IC 10-11-8-2.

Sec. 2. As used in this chapter, "methamphetamine abuse" means the:
   (1) use;
   (2) sale;
   (3) manufacture;
   (4) transport; or
   (5) delivery;
   of methamphetamine or of a methamphetamine precursor, if the precursor is being used, sold, manufactured, transported, or delivered to facilitate the manufacture of methamphetamine.

Sec. 3. A law enforcement agency that discovers evidence of methamphetamine abuse shall report the methamphetamine abuse to the criminal justice institute on a form and in the manner prescribed by guidelines adopted by the criminal justice institute under IC 5-2-6-18.

SECTION 4. IC 9-13-2-86 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 86. "Intoxicated" means under the influence of:
   (1) alcohol;
   (2) a controlled substance (as defined in IC 35-48-1);
   (3) a drug other than alcohol or a controlled substance; or
   (4) a substance described in IC 35-46-6-2 or IC 35-46-6-3; or
   (5) a combination of alcohol, controlled substances, or drugs substances described in subdivisions (1) through (4);
   so that there is an impaired condition of thought and action and the loss of normal control of a person's faculties.

SECTION 5. IC 11-12-3.7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. As used in this chapter, "drug dealing offense" means one (1) or more of the following offenses:
   (1) Dealing in cocaine or a narcotic drug or methamphetamine (IC 35-48-4-1), unless the person received only minimal consideration as a result of the drug transaction.
   (2) Dealing in methamphetamine (IC 35-48-4-1.1), unless the person received only minimal consideration as a result of the drug transaction.
   (3) Dealing in a schedule I, II, III, IV, or V controlled substance (IC 35-48-4-2 through IC 35-48-4-4), unless the person received only minimal consideration as a result of the drug transaction.
   (4) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10), unless the person received only minimal consideration as a result of the drug transaction.

SECTION 6. IC 16-31-3-14, AS AMENDED BY P.L.22-2005, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) A person holding a certificate issued under this article must comply with the applicable standards and rules established under this article. A certificate holder is subject to disciplinary sanctions under subsection (b) if the state emergency management agency department of homeland security determines that the certificate holder:
   (1) engaged in or knowingly cooperated in fraud or material deception in order to obtain a certificate, including cheating on a certification examination;
   (2) engaged in fraud or material deception in the course of professional services or activities;
   (3) advertised services or goods in a false or misleading manner;
   (4) falsified or knowingly allowed another person to falsify attendance records or certificates of completion of continuing education courses required under this article or rules adopted under this article;
   (5) is convicted of a crime, if the act that resulted in the conviction has a direct bearing on determining if the certificate holder should be entrusted to provide emergency medical services;
   (6) is convicted of violating IC 9-19-14.5;
   (7) fails to comply and maintain compliance with or violates any applicable provision, standard, or other requirement of this article or rules adopted under this article;
   (8) continues to practice if the certificate holder becomes unfit to practice due to:
      (A) professional incompetence that includes the undertaking of professional activities that the certificate holder is not qualified by training or experience to undertake;
      (B) failure to keep abreast of current professional theory or practice;
      (C) physical or mental disability; or
      (D) addiction to, abuse of, or dependency on alcohol or other drugs that endanger the public by impairing the certificate holder's ability to practice safely;
   (9) engages in a course of lewd or immoral conduct in connection with the delivery of services to the public;
   (10) allows the certificate holder's name or a certificate issued under this article to be used in connection with a person who renders services beyond the scope of that person's training, experience, or competence;
   (11) is subjected to disciplinary action in another state or jurisdiction on grounds similar to those contained in this chapter. For purposes of this subdivision, a certified copy of a record of disciplinary action constitutes prima facie evidence of a disciplinary action in another jurisdiction;
   (12) assists another person in committing an act that would constitute a ground for disciplinary sanction under this chapter; or
   (13) allows a certificate issued by the commission to be:
      (A) used by another person; or
      (B) displayed to the public when the certificate is expired, inactive, invalid, revoked, or suspended.
(b) The state emergency management agency department of homeland security may issue an order under IC 4-21.5-3-6 to impose one (1) or more of the following sanctions if the state emergency management agency department of homeland security determines that a certificate holder is subject to disciplinary sanctions under subsection (a):

(1) Revocation of a certificate holder's certificate for a period not to exceed seven (7) years.
(2) Suspension of a certificate holder's certificate for a period not to exceed seven (7) years.
(3) Censure of a certificate holder.
(4) Issuance of a letter of reprimand.
(5) Assessment of a civil penalty against the certificate holder in accordance with the following:
   (A) The civil penalty may not exceed five hundred dollars ($500) per day per violation.
   (B) If the certificate holder fails to pay the civil penalty within the time specified by the state emergency management agency department of homeland security, the state emergency management agency department of homeland security may suspend the certificate holder's certificate without additional proceedings.
(6) Placement of a certificate holder on probation status and requirement of the certificate holder to:
   (A) report regularly to the state emergency management agency department of homeland security upon the matters that are the basis of probation;
   (B) limit practice to those areas prescribed by the state emergency management agency department of homeland security;
   (C) continue or renew professional education approved by the state emergency management agency department of homeland security until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or
   (D) perform or refrain from performing any acts, including community restitution or service without compensation, that the state emergency management agency department of homeland security considers appropriate to the public interest or to the rehabilitation or treatment of the certificate holder.

The state emergency management agency department of homeland security may withdraw or modify this probation if the state emergency management agency department of homeland security finds after a hearing that the deficiency that required disciplinary action is remedied or that changed circumstances warrant a modification of the order.

(c) If an applicant or a certificate holder has engaged in or knowingly cooperated in fraud or material deception to obtain a certificate, including cheating on the certification examination, the state emergency management agency department of homeland security may rescind the certificate if it has been granted, void the examination or other fraudulent or deceptive material, and prohibit the applicant from reapplying for the certificate for a length of time established by the state emergency management agency department of homeland security.

(d) The state emergency management agency department of homeland security may deny certification to an applicant who would be subject to disciplinary sanctions under subsection (b) if that person were a certificate holder, has had disciplinary action taken against the applicant or the applicant's certificate to practice in another state or jurisdiction, or has practiced without a certificate in violation of the law. A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action.

(e) The state emergency management agency department of homeland security may order a certificate holder to submit to a reasonable physical or mental examination if the certificate holder's physical or mental capacity to practice safely and competently is at issue in a disciplinary proceeding. Failure to comply with a state emergency management agency department of homeland security order to submit to a physical or mental examination makes a certificate holder liable to temporary suspension under subsection (i).

(f) Except as provided under subsection (a), subsection (g), and section 14.5 of this chapter, a certificate may not be denied, revoked, or suspended because the applicant or certificate holder has been convicted of an offense. The acts from which the applicant's or certificate holder's conviction resulted may be considered as to whether the applicant or certificate holder should be entrusted to serve the public in a specific capacity.

(g) The state emergency management agency department of homeland security may deny, suspend, or revoke a certificate issued under this article if the individual who holds or is applying for the certificate is convicted of any of the following:

(1) Possession of cocaine or a narcotic drug or methamphetamine under IC 35-48-4-6.
(2) Possession of methamphetamine under IC 35-48-4-6.1.
(3) Possession of a controlled substance under IC 35-48-4-7(a).
(4) Fraudulently obtaining a controlled substance under IC 35-48-4-7(b).
(5) Manufacture of paraphernalia as a Class D felony under IC 35-48-4-8.1(b).
(6) Dealing in paraphernalia as a Class D felony under IC 35-48-4-8.5(b).
(7) Possession of paraphernalia as a Class D felony under IC 35-48-4-8.3(b).
(8) Possession of marijuana, hash oil, or hashish as a Class D felony under IC 35-48-4-11.
(9) Maintaining a common nuisance under IC 35-48-4-13.
(10) An offense relating to registration, labeling, and prescription forms under IC 35-48-4-14.
(11) Conspiracy under IC 35-41-5-2 to commit an offense listed in subdivisions (1) through (9).
(12) Attempt under IC 35-41-5-1 to commit an offense listed in subdivisions (1) through (10).
(13) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described by subdivisions (1) through (12).

(h) A decision of the state emergency management agency department of homeland security under subsections (b) through (g) may be appealed to the commission under IC 4-21.5-3-7.

(i) The state emergency management agency department of homeland security may temporarily suspend a certificate holder's certificate under IC 4-21.5-4 before a final adjudication or during the appeals process if the state emergency management agency department of homeland security finds that a certificate holder would represent a clear and immediate danger to the public's health, safety, or property if the certificate holder were allowed to continue to practice.

(j) On receipt of a complaint or information alleging that a person certified under this chapter or IC 16-31-3.5 has engaged in or is engaging in a practice that is subject to disciplinary sanctions under this chapter, the state emergency management agency department of homeland security must initiate an investigation against the person.

(k) The state emergency management agency department of homeland security shall conduct a factfinding investigation as the state emergency management agency department of homeland security considers proper in relation to the complaint.

(l) The state emergency management agency department of homeland security may reinstate a certificate that has been suspended under this section if the state emergency management agency department of homeland security is satisfied that the applicant is able to practice with reasonable skill, competency, and safety to the public. As a condition of reinstatement, the state emergency management agency department of homeland security may impose disciplinary or corrective measures authorized under this chapter.

(m) The state emergency management agency department of homeland security may not reinstate a certificate that has been revoked under this chapter.

(n) The state emergency management agency department of homeland security must be consistent in the application of sanctions authorized in this chapter. Significant departures from prior decisions involving similar conduct must be explained in the state emergency management agency's department of homeland security's findings
SECTION 7. IC 16-31-3-14.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14.5. The state emergency management agency department of homeland security may issue an order under IC 4-21.5-3-6 to deny an applicant's request for certification or permanently revoke a certificate under procedures provided by section 14 of this chapter if the individual who holds the certificate issued under this title is convicted of any of the following:

1. Dealing in or manufacturing cocaine or a narcotic drug or methamphetamine under IC 35-48-4-1.
2. Dealing in methamphetamine under IC 35-48-4-1.1.
3. Dealing in a schedule I, II, or III controlled substance under IC 35-48-4-2.
4. Dealing in a schedule IV controlled substance under IC 35-48-4-3.
5. Dealing in a schedule V controlled substance under IC 35-48-4-4.
6. Dealing in a substance represented to be a controlled substance under IC 35-48-4-4.5.
7. Knowingly or intentionally manufacturing, advertising, distributing, or possessing with intent to manufacture, advertise, or distribute a substance represented to be a controlled substance under IC 35-48-4-4.6.
9. Dealing in marijuana, hash oil, or hashish under IC 35-48-4-4.10(b).
10. Conspiracy under IC 35-41-5-2 to commit an offense listed in subdivisions (1) through (9).
11. Attempt under IC 35-41-5-1 to commit an offense listed in subdivisions (1) through (9).
12. A crime of violence (as defined in IC 35-50-1-2(a)).
13. An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described under subdivisions (1) through (12).

SECTION 8. IC 20-28-5-8, AS ADDED BY P.L.246-2005, SECTION 159, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) This section applies when a prosecuting attorney knows that a licensed employee of a public school or a nonpublic school has been convicted of an offense listed in subsection (c). The prosecuting attorney shall immediately give written notice of the conviction to the following:

1. The state superintendent.
2. Except as provided in subdivision (3), the superintendent of the school corporation that employs the licensed employee or the equivalent authority if a nonpublic school employs the licensed employee.
3. The presiding officer of the governing body of the school corporation that employs the licensed employee, if the convicted licensed employee is the superintendent of the school corporation.

(b) The superintendent of a school corporation, presiding officer of the governing body, or equivalent authority for a nonpublic school shall immediately notify the state superintendent when the individual knows that a current or former licensed employee of the public school or nonpublic school has been convicted of an offense listed in subsection (c).

(c) The department, after holding a hearing on the matter, shall permanently revoke the license of a person who is known by the department to have been convicted of any of the following felonies:

1. Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.
2. Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.
3. Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.
4. Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.
5. Child molesting (IC 35-42-4-3).
6. Child exploitation (IC 35-42-4-4(b)).
7. Vicarious sexual gratification (IC 35-42-4-5).
8. Child solicitation (IC 35-42-4-6).
10. Sexual misconduct with a minor (IC 35-42-4-9).
11. Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.
12. Dealing in or manufacturing cocaine or a narcotic drug or methamphetamine (IC 35-48-4-1).
For purposes of subdivision (10), a certified copy of a record of whether the applicant or holder should be entrusted to serve the holder's conviction resulted may, however, be considered as to whether the applicant or holder should be entrusted to serve the public in a specific capacity.

(g) The department may deny, suspend, or revoke a license issued under this chapter if the individual who holds the license is convicted of any of the following:

(1) Possession of cocaine or a narcotic drug or methamphetamine under IC 35-48-4-6.

(2) Possession of methamphetamine under IC 35-48-4-6.1.

(3) Possession of a controlled substance under IC 35-48-4-7(a).

(4) Fraudulently obtaining a controlled substance under IC 35-48-4-7(b).

(5) Manufacture of paraphernalia as a Class D felony under IC 35-48-4-8.1(b).

(6) Dealing in paraphernalia as a Class D felony under IC 35-48-4-8.5(b).

(7) Possession of paraphernalia as a Class D felony under IC 35-48-4-8.3(b).

(8) Possession of marijuana, hash oil, or hashish as a Class D felony under IC 35-48-4-11.

(9) Maintaining a common nuisance under IC 35-48-4-13.

(10) An offense relating to registration, labeling, and prescription forms under IC 35-48-4-14.

(11) Conspiracy under IC 35-41-5-2 to commit an offense listed in clauses (1) through (10).

(12) Attempt under IC 35-41-5-1 to commit an offense listed in clauses (1) through (10).

(13) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described under clauses (1) through (12).

(h) The department shall deny, revoke, or suspend a license issued under this chapter if the individual who holds the license is convicted of any of the following:

(1) Dealing in cocaine or a narcotic drug or methamphetamine under IC 35-48-4-1.

(2) Dealing in methamphetamine under IC 35-48-4-1.1.

(3) Dealing in a schedule I, II, or III controlled substance under IC 35-48-4-2.

(4) Dealing in a schedule IV controlled substance under IC 35-48-4-3.

(5) Dealing in a schedule V controlled substance under IC 35-48-4-4.

(6) Dealing in a substance represented to be a controlled substance under IC 35-48-4-4.5.

(7) Knowingly or intentionally manufacturing, advertising, distributing, or possessing with intent to manufacture, advertise, or distribute a substance represented to be a controlled substance under IC 35-48-4-4.6.

(8) Dealing in a counterfeit substance under IC 35-48-4-5.

(9) Dealing in marijuana, hash oil, or hashish under IC 35-48-4-10(b).

(10) Conspiracy under IC 35-41-5-2 to commit an offense listed in clauses (1) through (9).

(11) Attempt under IC 35-41-5-1 to commit an offense listed in clauses (1) through (9).

(12) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described under clauses (1) through (11).

(13) A violation of any federal or state drug law or rule related to wholesale legend drug distributors licensed under IC 25-26-14.

(i) A decision of the department under subsections (h) through (k) may be appealed to the commission under IC 4-21.5-3-7.

(j) The department may temporarily suspend a practitioner's license under IC 4-21.5-4 before a final adjudication or during the appeals process if the department finds that a practitioner represents a clear and immediate danger to the public's health, safety, or property if the practitioner is allowed to continue to practice.

(k) On receipt of a complaint or an information alleging that a person licensed under this chapter has engaged in or is engaging in a practice that jeopardizes the public health, safety, or welfare, the department shall initiate an investigation against the person.

(l) Any complaint filed with the office of the attorney general alleging a violation of this licensing program shall be referred to the department for summary review and for its general information and any authorized action at the time of the filing.

(m) The department shall conduct a fact finding investigation as the department considers proper in relation to the complaint.

(n) The department may reinstate a license that has been suspended.
under this section if, after a hearing, the department is satisfied that
the applicant is able to practice with reasonable skill, safety, and
competency to the public. As a condition of reinstatement, the
department may impose disciplinary or corrective measures
authorized under this chapter.

(o) The department may not reinstate a license that has been
revoked under this chapter. An individual whose license has been
revoked under this chapter may not apply for a new license until
seven (7) years after the date of revocation.

(p) The department shall seek to achieve consistency in the
application of sanctions authorized in this chapter. Significant
departures from prior decisions involving similar conduct must be
explained in the department's findings or orders.

(q) A practitioner may petition the department to accept
the surrender of the practitioner's license instead of having a hearing
before the commission. The practitioner may not surrender
the practitioner's license without the written approval of the department,
and the department may impose any conditions appropriate to the
surrender or reinstatement of a surrendered license.

(r) A practitioner who has been subjected to disciplinary sanctions
may be required by the commission to pay the costs of the
proceeding. The practitioner's ability to pay shall be considered when
costs are assessed. If the practitioner fails to pay the costs, a
suspension may not be imposed solely upon the practitioner's inability to
pay the amount assessed. The costs are limited to costs for the
following:

(1) Court reporters.
(2) Transcripts.
(3) Certification of documents.
(4) Photo duplication.
(5) Witness attendance and mileage fees.
(6) Postage.
(7) Expert witnesses.
(8) Depositories.
(9) Notarizations.

SECTION 10. IC 25-1-1.1-2 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. A board, a
commission, or a committee may suspend or revoke a license or
certificate issued under this title by the board, the commission, or the
committee if the individual who holds the license or certificate is
convicted of any of the following:

 Possession of cocaine or a narcotic drug or
methamphetamine under IC 35-48-4-6.

 Possession of methamphetamine under IC 35-48-4-6.1.
(3) Possession of a controlled substance under IC 35-48-4-7(a).
(4) Fraudulently obtaining a controlled substance under IC 35-48-4-7(b).
(5) Manufacture of paraphernalia as a Class D felony under IC 35-48-4-8.1(b).
(6) Dealing in paraphernalia as a Class D felony under IC 35-48-4-8.5(b).
(7) Possession of paraphernalia as a Class D felony under IC 35-48-4-8.3(b).
(8) Possession of marijuana, hash oil, or hashish as a Class D felony under IC 35-48-4-11.
(9) Maintaining a common nuisance under IC 35-48-4-13.
(10) An offense relating to registration, labeling, and
prescription forms under IC 35-48-4-14.
(11) Conspiracy under IC 35-41-5-2 to commit an offense
listed in subdivisions (1) through (10).
(12) Attempt under IC 35-41-5-1 to commit an offense
listed in subdivisions (1) through (10).
(13) An offense in any other jurisdiction in which the
elements of the offense for which the conviction was entered are
substantially similar to the elements of an offense described
under subdivisions (1) through (12).

SECTION 11. IC 25-1-1.1-3 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. A board, a
commission, or a committee shall revoke or suspend a license or
certificate issued under this title by the board, the commission, or the
committee if the individual who holds the license or certificate is
convicted of any of the following:

 Dealings in or manufacturing cocaine or a narcotic drug or
methamphetamine under IC 35-48-4-1.
(2) Dealing in methamphetamine under IC 35-48-4-1.1.
(3) Dealing in a schedule I, II, or III controlled substance under IC 35-48-4-2.
(4) Dealing in a schedule IV controlled substance under IC 35-48-4-3.
(5) Dealing in a schedule V controlled substance under IC 35-48-4-4.
(6) Dealing in a substance represented to be a controlled
substance under IC 35-48-4-4.5.
(7) Knowingly or intentionally manufacturing, advertising,
distributing, or possessing with intent to manufacture, advertise,
or distribute a substance represented to be a controlled
substance under IC 35-48-4-6.
(8) Dealing in a counterfeit substance under IC 35-48-4-5.
(9) Dealing in marijuana, hash oil, or hashish under IC 35-48-4-10(b).
(10) Conspiracy under IC 35-41-5-2 to commit an offense
listed in subdivisions (1) through (9).
(11) Attempt under IC 35-41-5-1 to commit an offense
listed in subdivisions (1) through (9).
(12) An offense in any other jurisdiction in which the
elements of the offense for which the conviction was entered are
substantially similar to the elements of an offense described
under subdivisions (1) through (11).
(13) A violation of any federal or state drug law or rule
related to wholesale drug distributors licensed under IC
25-26-14.

SECTION 12. IC 31-30-1-4 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 4. (a) The juvenile
court does not have jurisdiction over an individual for an alleged violation of:

(1) IC 35-42-1-1 (murder);
(2) IC 35-42-3-2 (kidnapping);
(3) IC 35-42-4-1 (rape);
(4) IC 35-42-4-2 (criminal deviate conduct);
(5) IC 35-42-5-1 (robbery) if:
(A) the robbery was committed while armed with a deadly
weapon; or
(B) the robbery results in bodily injury or serious bodily
injury;
(6) IC 35-42-5-2 (carjacking);
(7) IC 35-45-9-3 (criminal gang activity);
(8) IC 35-45-9-4 (criminal gang intimidation);
(9) IC 35-47-2-1 (carrying a handgun without a license);
(10) IC 35-47-10 (children and firearms);
(11) IC 35-47-5-4.1 (dealing in a sawed-off shotgun); or
(12) any offense that may be joined under IC 35-34-1-9(a)(2)
with any crime listed in subdivisions (1) through (11);
if the individual was at least sixteen (16) years of age at the time of
the alleged violation.
(b) The juvenile court does not have jurisdiction for an alleged
violation of manufacturing or dealing in cocaine or a narcotic drug or
methamphetamine (IC 35-48-4-1), dealing in methamphetamine
(IC 35-48-4-1.1), dealing in a schedule I, II, or III controlled
substance (IC 35-48-4-2), or dealing in a schedule IV controlled
substance (IC 35-48-4-3), if:
(1) the individual has a prior unrelated conviction under IC
35-48-4-1, IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3; or
(2) the individual has a prior unrelated juvenile adjudication
that, if committed by an adult, would be a crime under
IC 35-48-4-1, IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3;
and the individual was at least sixteen (16) years of age at the time of
the alleged violation.
(c) Once an individual described in subsection (a) or (b) has been
charged with any crime listed in subsection (a) through (15) (a)
or (b), the court having adult criminal jurisdiction shall retain
jurisdiction over the case even if the individual pleads guilty to or is
convicted of a lesser included offense. A plea of guilty to or a
conviction of a lesser included offense does not vest jurisdiction in the
juvenile court.

SECTION 13. IC 34-24-1-1, AS AMENDED BY SEA 145-2006,
SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) The following may be seized:

(1) All vehicles (as defined by IC 35-41-1), if they are used or are intended for use by the person or persons in possession of them to transport or in any manner to facilitate the transportation of the following:

(A) A controlled substance for the purpose of committing, attempting to commit, or conspiring to commit any of the following:

(i) Dealing in or manufacturing cocaine or a narcotic drug or methamphetamine (IC 35-48-4-1).

(ii) Dealing in methamphetamine (IC 35-48-4-1.1).

(iii) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(iv) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(v) Dealing in a schedule V controlled substance (IC 35-48-4-4).

(vi) Dealing in a counterfeit substance (IC 35-48-4-5).

(vii) Possession of cocaine or a narcotic drug or methamphetamine (IC 35-48-4-6).

(viii) Possession of methamphetamine (IC 35-48-4-6.1).

(ix) Dealing in paraphernalia (IC 35-48-4-8.5).

(x) Dealing in marijuana, hash oil, or hasheesh (IC 35-48-4-10).

(B) Any stolen (IC 35-43-4-2) or converted property (IC 35-43-4-3) if the retail or repurchase value of that property is one hundred dollars ($100) or more.

(C) Any hazardous waste in violation of IC 13-30-6-6.

(D) A bomb (as defined in IC 35-41-1-4.3) or weapon of mass destruction (as defined in IC 35-41-1-29.4) used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism (as defined by IC 35-41-1.26.5).

(2) All money, negotiable instruments, securities, weapons, communications devices, or any property used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism or commonly used as consideration for a violation of IC 35-48-4 (other than items subject to forfeiture under IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):

(A) furnished or intended to be furnished by any person in exchange for an act that is in violation of a criminal statute;

(B) used to facilitate any violation of a criminal statute; or

(C) traceable as proceeds of the violation of a criminal statute.

(3) Any portion of real or personal property purchased with money that is traceable as a proceed of a violation of a criminal statute.

(4) A vehicle that is used by a person to:

(A) commit, attempt to commit, or conspire to commit;

(B) facilitate the commission of;

(C) escape from the commission of;

murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense under IC 35-47 as part of or in furtherance of an act of terrorism.

(5) Real property owned by a person who uses it to commit any of the following as a Class A felony, a Class B felony, or a Class C felony:

(A) Dealing in or manufacturing cocaine or a narcotic drug or methamphetamine (IC 35-48-4-1).

(B) Dealing in methamphetamine (IC 35-48-4-1.1).

(C) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(D) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(E) Dealing in marijuana, hash oil, or hasheesh (IC 35-48-4-10).

(6) Equipment and recordings used by a person to commit fraud under IC 35-43-5-4(10).

(7) Recordings sold, rented, transported, or possessed by a person in violation of IC 24-4-10.

(8) Property (as defined by IC 35-41-1-23) or an enterprise (as defined by IC 35-45-6-1) that is the object of a corrupt business influence violation (IC 35-45-6-2).

(9) Unlawful telecommunications devices (as defined in IC 35-45-13-6) and plans, instructions, or publications used to commit an offense under IC 35-45-13.

(10) Any equipment used or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter in violation of IC 35-42-4-4.

(11) Destructive devices used, possessed, transported, or sold in violation of IC 35-47.5.

(12) Tobacco products that are sold in violation of IC 24-3-5, tobacco products that a person attempts to sell in violation of IC 24-3-5, and other personal property owned and used by a person to facilitate a violation of IC 24-3-5.

(13) Property used by a person to commit counterfeiting or forgery in violation of IC 35-43-5-2.

(14) After December 31, 2005, if a person is convicted of an offense specified in IC 25-26-14-26(b) or IC 35-43-10, the following real or personal property:

(A) Property used or intended to be used to commit, facilitate, or promote the commission of the offense.

(B) Property constituting, derived from, or traceable to the gross proceeds that the person obtained directly or indirectly as a result of the offense.

(15) Except as provided in subsection (e), a motor vehicle used by a person who operates the motor vehicle:

(A) while intoxicated, in violation of IC 9-30-5-1 through IC 9-30-5-5, if in the previous five (5) years the person has two (2) or more prior unrelated convictions:

(i) for operating a motor vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or

(ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction;

(B) on a highway while the person's driver's license is suspended in violation of IC 9-24-19-2 through IC 9-24-19-4, if in the previous five (5) years the person has two (2) or more prior unrelated convictions:

(i) for operating a motor vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or

(ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction.

If a court orders the seizure of a motor vehicle under this subdivision, the court shall transmit an order to the bureau of motor vehicles recommending that the bureau not permit a motor vehicle to be registered in the name of the person whose motor vehicle was seized until the person possesses a current driving license (as defined in IC 9-13-2-41).

(b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).

(c) Equipment under subsection (a)(17) may not be seized unless it can be proven by a preponderance of the evidence that the owner of the equipment knowingly permitted the equipment to be used to engage in conduct that subjects it to seizure under subsection (a).

(d) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

(1) IC 35-48-4-1 (dealing in or manufacturing cocaine or a
narcotic drug), or methamphetamine).
(2) IC 35-48-4-1.1 (dealing in methamphetamine).
(3) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).
(4) IC 35-48-4-3 (dealing in a schedule IV controlled substance).
(5) IC 35-48-4-4 (dealing in a schedule V controlled substance).

The law enforcement agency completes a chemical inventory report that describes the type and quantities of chemicals, and controlled substances, and chemically contaminated equipment present at the illegal manufacturing site.

The photographs and description of the property shall be admissible into evidence in place of the actual physical evidence.

For purposes of preserving the record of any conviction on appeal, a photograph demonstrating the nature of the property, and an adequate description of the property must be obtained before the disposition of it. In the event of a retrial, the photograph and description of the property shall be admissible into evidence in place of the actual physical evidence. All other rules of law governing the admissibility of evidence shall apply to the photographs.

The photographs and description of the property shall be admissible into evidence in place of the actual physical evidence.
(4) knowingly or intentionally kills a fetus that has attained viability (as defined in IC 16-18-2-365); commits murder, a felony.

SECTION 17. IC 35-45-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. As used in this chapter:

"Documentary material" means any document, drawing, photograph, recording, or other tangible item containing compiled data from which information can be either obtained or translated into a usable form.

"Enterprise" means:

(1) a sole proprietorship, corporation, limited liability company, partnership, business trust, or governmental entity; or
(2) a union, an association, or a group, whether a legal entity or merely associated in fact.

"Pattern of racketeering activity" means engaging in at least two (2) incidents of racketeering activity that have the same or similar intent, result, accomplice, victim, or method of commission, or that are otherwise interrelated by distinguishing characteristics that are not isolated incidents. However, the incidents are a pattern of racketeering activity only if at least one (1) of the incidents occurred after August 31, 1980, and if the last of the incidents occurred within five (5) years after a prior incident of racketeering activity.

"Racketeering activity" means to commit, to attempt to commit, to conspire to commit a violation of, or aiding and abetting in a violation of any of the following:

(1) A provision of IC 23-2-1, or of a rule or order issued under IC 23-2-1.
(2) A violation of IC 35-45-9.
(3) A violation of IC 35-47.
(4) A violation of IC 35-49-3.
(5) Murder (IC 35-42-1-1).
(6) Battery as a Class C felony (IC 35-42-2-1).
(7) Kidnapping (IC 35-42-3-2).
(8) Child exploitation (IC 35-42-4-4).
(9) Robbery (IC 35-42-5-1).
(10) Carjacking (IC 35-42-5-2).
(11) Arson (IC 35-43-1-1).
(12) Burglary (IC 35-43-2-1).
(13) Theft (IC 35-43-4-2).
(14) Receiving stolen property (IC 35-43-4-2).
(15) Forgery (IC 35-43-5-2).
(16) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(9)).
(17) Bribery (IC 35-44-1-1).
(18) Official misconduct (IC 35-44-1-2).
(19) Conflict of interest (IC 35-44-1-3).
(20) Perjury (IC 35-44-2-1).
(21) Obstruction of justice (IC 35-44-3-4).
(22) Intimidation (IC 35-45-2-1).
(23) Promoting prostitution (IC 35-45-4-4).
(24) Promoting professional gambling (IC 35-45-5-4).
(25) Dealing in or manufacturing cocaine or a narcotic drug or methamphetamine (IC 35-48-4-1).

(26) Dealing in methamphetamine (IC 35-48-4-1.1).
(27) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
(28) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
(29) Dealing in a schedule V controlled substance (IC 35-48-4-4).
(30) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
(32) A violation of IC 35-47-5.5.

SECTION 18. IC 35-46-1-8, AS AMENDED BY P.L.2-2005, SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) A person at least eighteen (18) years of age who knowingly or intentionally encourages, aids, induces, or causes a person less than eighteen (18) years of age to commit an act of delinquency (as defined by IC 31-37-1 or IC 31-37-2) commits contributing to delinquency, a Class A misdemeanor.

(b) However, the offense described in subsection (a) is a Class C felony:

(1) if:
(A) the person committing the offense is at least twenty-one (21) years of age and knowingly or intentionally furnishes:
(i) an alcoholic beverage to a person less than eighteen (18) years of age in violation of IC 7.1-5-7-8 when the person committing the offense knew or reasonably should have known that the person furnished the alcoholic beverage was less than eighteen (18) years of age; or
(ii) a controlled substance (as defined in IC 35-48-1-9) or a drug (as defined in IC 9-13-2-49.1) in violation of Indiana law; and
(B) the consumption, ingestion, or use of the alcoholic beverage, controlled substance, or drug is the proximate cause of the death of any person;

or
(2) if the person committing the offense knowingly or intentionally encourages, aids, induces, or causes a person less than eighteen (18) years of age to commit an act that would be a felony if committed by an adult under any of the following:
(A) IC 35-48-4-1.
(B) IC 35-48-4-1.1.
(C) IC 35-48-4-2.
(D) IC 35-48-4-3.
(E) IC 35-48-4-4.
(F) IC 35-48-4-4.5.
(G) IC 35-48-4-4.6.

SECTION 19. IC 35-46-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. As used in this chapter, "model glue" means a glue or cement containing:

(1) toluene or acetone, or both; or
(2) another chemical having the property of releasing toxic vapors.

SECTION 20. IC 35-46-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. A person who, with intent to cause a condition of intoxication, euphoria, excitement, exhilaration, stupification, or dulling of the senses, ingests or inhales the fumes of:

(1) a substance that contains:
(A) toluene;
(B) acetone;
(C) benzene;
(D) N-butyl nitrite;
(E) any aliphatic nitrite, unless prescribed by a physician; or
(F) butane;
(G) amyl butrate;
(H) isobutyl nitrate;
(I) freon;
(J) chlorinated hydrocarbons;
(K) methylene chloride;
(L) hexane;
(M) ether;
(N) chloroform; or
(O) halothane; or
(3) any other chemical having the property of releasing toxic vapors;

commits inhaling toxic vapors, a Class B misdemeanor.

SECTION 21. IC 35-47-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) As used in this section, "serious violent felony" means a person who has been convicted of:

(1) committing a serious violent felony in:
(A) Indiana; or
(B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a serious violent felony;

or
(2) attempting to commit or conspiring to commit a serious violent felony in:
(A) Indiana as provided under IC 35-41-5-1 or IC 35-41-5-2; or
(B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar...
to the elements of attempting to commit or conspiring to commit a serious violent felony.

(b) As used in this section, "serious violent felony" means:
(1) murder (IC 35-42-1-1);
(2) voluntary manslaughter (IC 35-42-1-3);
(3) reckless homicide not committed by means of a vehicle (IC 35-42-1-5);
(4) battery as:
(A) Class A felony (IC 35-42-2-1(a)(5));
(B) Class B felony (IC 35-42-2-1(a)(4)); or
(C) Class C felony (IC 35-42-2-1(a)(3));
(5) aggravated battery (IC 35-42-2-1.5);
(6) kidnapping (IC 35-42-3-2);
(7) criminal confinement (IC 35-42-3-3);
(8) rape (IC 35-42-4-1);
(9) criminal deviate conduct (IC 35-42-4-2);
(10) child molesting (IC 35-42-4-3);
(11) sexual battery as a Class C felony (IC 35-42-4-8);
(12) robbery (IC 35-42-5-1);
(13) carjacking (IC 35-42-5-2);
(14) arson as a Class A felony or Class B felony (IC 35-43-1-1(a));
(15) burglary as a Class A felony or Class B felony (IC 35-43-2-1);
(16) assisting a criminal as a Class C felony (IC 35-44-3-2);
(17) resisting law enforcement as a Class B felony or Class C felony (IC 35-44-3-3);
(18) escape as a Class B felony or Class C felony (IC 35-44-3-5);
(19) trafficking with an inmate as a Class C felony (IC 35-44-3-9);
(20) criminal gang intimidation (IC 35-45-9-4);
(21) stalking as a Class B felony or Class C felony (IC 35-45-10-5);
(22) incest (IC 35-46-1-3);
(23) dealing in or manufacturing cocaine or a narcotic drug or methamphetamine (IC 35-47-1-5);
(24) dealing in methamphetamine (IC 35-48-4-1.1);
(25) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);
(26) dealing in a schedule IV controlled substance (IC 35-48-4-3); or
(27) dealing in a schedule V controlled substance (IC 35-48-4-4).
(c) A serious violent felon who knowingly or intentionally possesses a firearm commits unlawful possession of a firearm by a serious violent felon, a Class B felony.

SECTION 22. IC 35-48-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) A person who:
(1) knowingly or intentionally:
(A) manufactures;
(B) finances the manufacture of;
(C) delivers; or
(D) finances the delivery of;
coconine or a narcotic drug, or methamphetamine, pure or adulterated, classified in schedule I or II; or
(2) possesses, with intent to:
(A) manufacture;
(B) finance the manufacture of;
(C) deliver; or
(D) finance the delivery of;
cocaine or a narcotic drug, or methamphetamine, pure or adulterated, classified in schedule I or II;
comts dealing in cocaine or a narcotic drug, or methamphetamine, a Class B felony, except as provided in subsection (b).
(b) The offense is a Class A felony if:
(1) the amount of the drug involved weighs three (3) grams or more;
(2) the person:
(A) delivered; or
(B) financed the delivery of;
the drug to a person under eighteen (18) years of age at least three (3) years junior to the person; or
(3) the person manufactured, delivered, or financed the delivery of the drug:
(A) on a school bus; or
(B) in, on, or within one thousand (1,000) feet of:
(i) school property;
(ii) a public park;
(iii) a family housing complex; or
(iv) a youth program center.
SECTION 23. IC 35-48-4-1.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1.1. (a) A person who:
(1) knowingly or intentionally:
(A) manufactures;
(B) finances the manufacture of;
(C) delivers; or
(D) finances the delivery of;
methamphetamine, pure or adulterated; or
(2) possesses, with intent to:
(A) manufacture;
(B) finance the manufacture of;
(C) deliver; or
(D) finance the delivery of;
methamphetamine, pure or adulterated;
commits dealing in methamphetamine, a Class B felony, except as provided in subsection (b).
(b) The offense is a Class A felony if:
(1) the amount of the drug involved weighs three (3) grams or more:
(2) the person:
(A) delivered; or
(B) financed the delivery of;
the drug to a person under eighteen (18) years of age at least three (3) years junior to the person; or
(3) the person manufactured, delivered, or financed the delivery of the drug:
(A) on a school bus; or
(B) in, on, or within one thousand (1,000) feet of:
(i) school property;
(ii) a public park;
(iii) a family housing complex; or
(iv) a youth program center.
SECTION 24. IC 35-48-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) A person who, without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice, knowingly or intentionally possesses cocaine (pure or adulterated) or a narcotic drug (pure or adulterated) classified in schedule I or II, or methamphetamine (pure or adulterated) commits possession of cocaine or a narcotic drug, or methamphetamine, a Class D felony, except as provided in subsection (b).
(b) The offense is:
(1) a Class C felony if:
(A) the amount of the drug involved (pure or adulterated) weighs three (3) grams or more; or
(B) the person was also in possession of a firearm (as defined in IC 35-47-1-5); or
(2) a Class B felony if the person in possession of the cocaine or narcotic drug or methamphetamine possesses less than three (3) grams of pure or adulterated cocaine or a narcotic drug or methamphetamine:
(A) on a school bus; or
(B) in, on, or within one thousand (1,000) feet of:
(i) school property;
(ii) a public park;
(iii) a family housing complex; or
(iv) a youth program center; and
(3) a Class A felony if the person possesses the cocaine or narcotic drug or methamphetamine in an amount (pure or adulterated) weighing at least three (3) grams:
(A) on a school bus; or
(B) in, on, or within one thousand (1,000) feet of:
(i) school property;
(ii) a public park;
(iii) a family housing complex; or
(iv) a youth program center.

SECTION 25. IC 35-48-4-6.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6.1. (a) A person who, without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice, knowingly or intentionally possesses methamphetamine (pure or adulterated) commits possession of methamphetamine, a Class D felony, except as provided in subsection (b).

(b) The offense is:
(1) a Class C felony if:
   (A) the amount of the drug involved (pure or adulterated) weighs three (3) grams or more; or
   (B) the person was also in possession of a firearm (as defined in IC 35-47-1-5);
(2) a Class B felony if the person possesses the methamphetamine possesses less than three (3) grams of pure or adulterated methamphetamine:
   (A) on a school bus; or
   (B) in, on, or within one thousand (1,000) feet of:
      (i) school property;
      (ii) a public park;
      (iii) a family housing complex; or
      (iv) a youth program center; and
(3) a Class A felony if the person possesses the methamphetamine in an amount (pure or adulterated) weighing at least three (3) grams:
   (A) on a school bus; or
   (B) in, on, or within one thousand (1,000) feet of:
      (i) school property;
      (ii) a public park;
      (iii) a family housing complex; or
      (iv) a youth program center.

SECTION 26. IC 35-48-4-14.5, AS AMENDED BY P.L.192-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14.5. (a) As used in this section, "chemical reagents or precursors" refers to one (1) or more of the following:
(1) Ephedrine.
(2) Pseudoephedrine.
(3) Phenylpropanolamine.
(4) The salts, isomers, and salts of isomers of a substance identified in subdivisions (1) through (3).
(5) Anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1).
(6) Organic solvents.
(7) Hydrochloric acid.
(8) Lithium metal.
(9) Sodium metal.
(10) Ether.
(11) Sulfuric acid.
(12) Red phosphorus.
(13) Iodine.
(14) Sodium hydroxide (lye).
(15) Potassium dichromate.
(16) Sodium dichromate.
(17) Potassium permanganate.
(18) Chromium trioxide.
(19) Benzyl cyanide.
(20) Phenylacetic acid and its esters or salts.
(21) Piperidine and its salts.
(22) Methylamine and its salts.
(23) Isosafrole.
(24) Safrole.
(25) Piperonal.
(26) Hydroiodic acid.
(27) Benzaldehyde.
(28) Nitroethane.
(29) Gamma-butyrolactone.
(30) White phosphorus.
(31) Hypophosphorous acid and its salts.
(32) Acetic anhydride.
(33) Benzyl chloride.
(34) Ammonium nitrate.
(35) Ammonium sulfate.
(36) Hydrogen peroxide.
(37) Thiouyl chloride.
(38) Ethyl acetate.
(39) Pseudoephedrine hydrochloride.

(b) A person who possesses more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, commits a Class D felony. However, the offense is a Class C felony if the person possessed:
(1) a firearm while possessing more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated;
(2) more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, in, on, or within one thousand (1,000) feet of:
   (A) school property;
   (B) a public park;
   (C) a family housing complex; or
   (D) a youth program center.

(c) A person who possesses anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with the intent to manufacture methamphetamine or amphetamine, schedule II controlled substances under IC 35-48-2-6, commits a Class D felony. However, the offense is a Class C felony if the person possessed:
(1) a firearm while possessing anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with the intent to manufacture methamphetamine or amphetamine, schedule II controlled substances under IC 35-48-2-6;
(2) more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, in, on, or within one thousand (1,000) feet of:
   (A) school property;
   (B) a public park;
   (C) a family housing complex; or
   (D) a youth program center.

(d) Subsection (b) does not apply to a:
(1) licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier or an agent of any of these persons if the possession is in the regular course of lawful business activities; or
(2) person who possesses more than ten (10) grams of a substance described in subsection (b) if the substance is possessed under circumstances consistent with typical medicinal or household use, including:
   (A) the location in which the substance is stored;
   (B) the possession of the substance in a variety of:
      (i) strengths;
      (ii) brands; or
      (iii) types; or
   (C) the possession of the substance:
      (i) with different expiration dates; or
      (ii) in forms used for different purposes.

(e) A person who possesses two (2) or more chemical reagents or precursors with the intent to manufacture
(1) Methadone, a schedule I controlled substance under IC 35-48-2-4;
(2) Methamphetamine, a schedule II controlled substance under IC 35-48-2-6;
(3) Amphetamine, a schedule II controlled substance under IC 35-48-2-6; or
(4) Phentermine, a schedule IV controlled substance under IC 35-48-2-10;
(a controlled substance commits a Class D felony.

(f) An offense under subsection (e) is a Class C felony if the person possessed:
(1) a firearm while possessing two (2) or more chemical reagents or precursors with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6; or
(2) two (2) or more chemical reagents or precursors with intent to manufacture methamphetamine, a schedule I controlled substance under IC 35-48-2-6 in, on, or within one thousand (1,000) feet of:
   (A) school property;
   (B) a public park;
   (C) a family housing complex; or
   (D) a youth program center.

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

SECTION 27. IC 35-48-4-14.7, AS ADDED BY P.L.192-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14.7. (a) This section does not apply to the following:

(1) Ephedrine or pseudoephedrine dispensed pursuant to a prescription.
(2) The sale of a drug containing ephedrine or pseudoephedrine to a licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, or an agent of any of these persons if the sale occurs in the regular course of lawful business activities. However, a retail distributor, wholesaler, or manufacturer is required to report a suspicious order to the state police department in accordance with subsection (f).
(3) The sale of a drug containing ephedrine or pseudoephedrine by a person who does not sell exclusively to walk-in customers for the personal use of the walk-in customers. However, if the person described in this subdivision is a retail distributor, wholesaler, or manufacturer, the person is required to report a suspicious order to the state police department in accordance with subsection (f).

(b) The following definitions apply throughout this section:

(1) "Constant video monitoring" means the surveillance by an automated camera that:
   (A) records at least one (1) photograph or digital image every ten (10) seconds;
   (B) retains a photograph or digital image for at least seventy-two (72) hours;
   (C) has sufficient resolution and magnification to permit the identification of a person in the area under surveillance; and
   (D) stores a recorded photograph or digital image at a location that is immediately accessible to a law enforcement officer.

(2) "Convenience package" means a package that contains a drug having as an active ingredient not more than one hundred twenty (120) milligrams of ephedrine or pseudoephedrine, or both.
(3) "Ephedrine" means pure or adulterated ephedrine.
(4) "Pseudoephedrine" means pure or adulterated pseudoephedrine.
(5) "Suspicious order" means a sale or transfer of a drug containing ephedrine or pseudoephedrine if the sale or transfer:
   (A) is a sale or transfer that the retail distributor, wholesaler, or manufacturer is required to report to the United States Drug Enforcement Administration;
   (B) appears suspicious to the retail distributor, wholesaler, or manufacturer in light of the recommendations contained in Appendix A of the report to the United States attorney general by the suspicious orders task force under the federal Comprehensive Methamphetamine Control Act of 1996; or
   (C) is for cash or a money order in a total amount of at least two hundred dollars ($200).

(6) "Unusual theft" means the theft or unexplained disappearance from a particular retail store of drugs containing ten (10) grams or more of ephedrine, pseudoephedrine, or both in a twenty-four (24) hour period.

(c) This subsection does not apply to a convenience package. A person may sell a drug that contains the active ingredient of ephedrine, pseudoephedrine, or both only if the person complies with the following conditions:

(1) The person does not sell the drug to a person less than eighteen (18) years of age.
(2) The person does not sell drugs containing more than three (3) grams of ephedrine or pseudoephedrine, or both in one (1) transaction.
(3) The person requires:
   (A) the purchaser to produce a state or federal identification card;
   (B) the purchaser to complete a paper or an electronic log in a format approved by the state police department with the purchaser's name, address, and driver's license or other identification number; and
   (C) the clerk who is conducting the transaction to initial or electronically record the clerk's identification on the log.

Records from the completion of a log must be retained for at least two (2) years, and may be inspected by a law enforcement officer has the right to inspect and copy a log or the records from the completion of a log in accordance with state and federal law. A person may not sell or release a log or the records from the completion of a log for a commercial purpose. The Indiana criminal justice institute may obtain information concerning a log or the records from the completion of a log from a law enforcement officer if the information may not be used to identify a specific individual and is used only for statistical purposes. A retailer who in good faith releases information maintained under this subsection is immune from civil liability unless the release constitutes gross negligence or intentional, wanton, or willful misconduct. This subdivision expires June 30, 2008.

(4) The person stores the drug:
   (A) behind a counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to a customer without the assistance of an employee; or
   (B) directly in front of the pharmacy counter in the direct line of sight of an employee at the pharmacy counter, in an area under constant video monitoring, if the drug is sold in a retail establishment that:
      (i) is a pharmacy; or
      (ii) contains a pharmacy that is open for business.

(d) A person may not purchase drugs containing more than three (3) grams of ephedrine, pseudoephedrine, or both in one (1) week.

(e) This subsection only applies to convenience packages. A person may not sell drugs containing more than one hundred twenty (120) milligrams of ephedrine or pseudoephedrine, or both in any one (1) transaction if the drugs are sold in convenience packages. A person who sells convenience packages must secure the convenience packages in at least one (1) of the following ways:

(1) The convenience package must be stored not more than thirty (30) feet away from a checkout station or counter and must be in the direct line of sight of an employee at the checkout station or counter.

(2) The convenience package must be protected by a reliable anti-theft device that uses package tags and detection alarms designed to prevent theft.

(3) The convenience package must be stored in restricted access shelving that permits a purchaser to remove not more than one (1) package every fifteen (15) seconds.

(4) The convenience package must be stored in an area that is under constant video monitoring, and a sign placed near the convenience package must warn that the area is under constant video monitoring.

(f) A retail distributor, wholesaler, or manufacturer shall report a suspicious order to the state police department in writing.

(g) Not later than three (3) days after the discovery of an unusual theft at a particular retail store, the retailer shall report the unusual theft to the state police department in writing. If three (3) unusual thefts occur in a thirty (30) day period at a particular retail store, the retailer shall, for at least one hundred eighty (180) days after the date of the last unusual theft, locate all drugs containing ephedrine or pseudoephedrine at that particular retail store behind a counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to customers without the assistance of an employee.
The offender in a forensic diversion program under IC 11-12-3.7: of the minimum sentence, unless the court has approved placement of the court may suspend only that part of the sentence that is in excess or in section 2.1 of this chapter.

The report must be in an electronic format under IC 5-14-6.

in this section, and must include recommendations for future action. attributable to the identification and logging requirements contained in this section, and must include recommendations for future action. The report must be in an electronic format under IC 5-14-6.

SECTION 28. IC 35-50-2-2, AS AMENDED BY P.L.213-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.

(b) With respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence, unless the court has approved placement of the offender in a forensic diversion program under IC 11-12-3.7:

C) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.

D) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.

E) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.

F) The felony committed was:

(A) murder (IC 35-42-1-1);

B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;

C) sexual battery (IC 35-42-4-8) with a deadly weapon;

D) kidnapping (IC 35-42-3-2);

E) confinement (IC 35-42-3-3) with a deadly weapon;

F) rape (IC 35-42-4-1) as a Class A felony;

G) criminal deviate conduct (IC 35-42-4-2) as a Class A felony;

H) child molesting (IC 35-42-4-3) as a Class A or Class B felony;

I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;

J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;

K) burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;

L) resisting law enforcement (IC 35-44-3-3) with a deadly weapon;

M) escape (IC 35-44-3-5) with a deadly weapon;

N) rioting (IC 35-45-1-2) with a deadly weapon;

O) dealing in cocaine or a narcotic drug or methamphetamine (IC 35-48-4-1) if the court finds the person possesses a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center;

P) dealing in methamphetamine (IC 35-48-4-1.1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver the methamphetamine pure or adulterated to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center;

Q) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center;

R) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5;

S) an offense under IC 9-30-5.5(b) (operating a vehicle while intoxicated causing death); or

T) (T) aggravated battery (IC 35-42-2-1.5).

(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.

(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon.

(e) Whenever the court suspends that part of an offender's (as defined in IC 5-2-12-4) sentence that is suspended under subsection (b), the court shall place the offender on probation under IC 35-38-2 for not more than ten (10) years.

(f) An additional term of imprisonment imposed under IC 35-50-2-11 may not be suspended.

(g) A term of imprisonment imposed under IC 35-47-10-6 or IC 35-47-10-7 may not be suspended if the commission of the offense was knowingly or intentionally.

(h) A term of imprisonment imposed for an offense under IC 35-48-4-6(b)(1)(B) or IC 35-48-4-6.1(b)(1)(B) may not be suspended.

SECTION 29. [EFFECTIVE JULY 1, 2006] IC 35-48-4-1.1 and IC 35-48-4-6.1, both as added by this act, and IC 35-48-4-1, IC 35-48-4-6, IC 35-48-4-14.5, and IC 35-48-14.7, all as amended by this act, apply only to crimes committed after June 30, 2006.

SECTION 30. An emergency is declared for this act.

(The reference is to ESB 193 as printed February 24, 2006.)

BRAY FOLEY
HUME VAN HAAFTEN
Senate Conferences House Conferences

The conference committee report was filed and read a first time.
SECTION 1. IC 22-13-2-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. A state agency or political subdivision may not require that a lawfully erected sign be removed or altered as a condition of issuing:

(1) a permit;
(2) a license;
(3) a variance; or
(4) any other order concerning land use or development;

unless the owner of the sign is compensated in accordance with IC 32-24 or has waived the right to and receipt of damages in writing.

SECTION 2. IC 23-14-60-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) If:

(1) any number of persons have:
(A) acted together as an association or corporation;
(B) acquired, as an association or corporation, land for cemetery purposes;
(C) sold and granted to persons the right to bury the dead in lots located on the land; and
(D) actually managed and controlled the land as a cemetery for at least thirty (30) years; but
(2) the organization that the persons attempted to establish as a corporation or cemetery association is defective and incomplete because of a failure to comply with the formalities required by law in force at some time since the original parties first assumed to act as an association or corporation;

the owners of the right to bury the dead on lots in the cemetery and those who may acquire the right become and continue to be a cemetery association or corporation from March 14, 1913.

(b) The owners of the right to bury the dead on lots in a cemetery referred to in subsection (a) have all the rights and powers of a cemetery association or corporation organized under this article, IC 23-1, or IC 23-17. including the power of eminent domain under IC 32-24.1

SECTION 3. IC 23-14-75-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to the following:

(1) A:
(A) city;
(B) town;
(C) township;
(D) corporation or association; or
(2) another owner:

that owns or controls a public cemetery that has been in existence for at least thirty (30) years;

SECTION 4. IC 23-14-75-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. If land has not been appropriated or set apart by the owners by platting for a public cemetery and it is necessary to purchase real estate for the cemetery:

(1) the legislative body of the city or town;
(2) the executive of the township;
(3) the trustees or directors of the corporation or association; or
(4) the other owners:

have has the power of eminent domain to condemn and appropriate the land for cemetery purposes under proceedings provided by statute.

SECTION 5. IC 32-24-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Any person that may exercise the power of eminent domain for any public use under any statute may exercise the power only in the manner provided in this article, except as otherwise provided by law.

(b) Before proceeding to condemn, the person:

(1) may enter upon any land to examine and survey the property sought to be acquired; and
(2) must make an effort to purchase for the use intended the land, right-of-way, easement, or other interest, in the property.

(c) The effort to purchase under subsection (b)(2) must include the following:

(1) Establishing a proposed purchase price for the property.
(2) Providing the owner of the property with an appraisal or other evidence used to establish the proposed purchase price.
(3) Conducting good faith negotiations with the owner of the property.

(d) If the land or interest in the land, or property or right is owned by a person who is an incapacitated person (as defined in IC 29-3-1-7.5) or less than eighteen (18) years of age, the person seeking to acquire the property may purchase the property from the guardian of the incapacitated person or person less than eighteen (18) years of age. If the purchase is approved by the court appointing the guardian and the approval is written upon the face of the deed, the conveyance of the property purchased and the deed made and approved by the court are valid and binding upon the incapacitated person or persons less than eighteen (18) years of age.

SECTION 6. IC 32-24-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) As a condition precedent to filing a complaint in condemnation, and except for an action brought under IC 8-1-13-19 (repealed), a condemnor may enter upon the property as provided in this chapter and must, at least thirty (30) days before filing a complaint, make an offer to purchase the property in the form prescribed in subsection (c). The offer must be served personally or by certified mail upon:

(1) the owner of the property sought to be acquired; or
(2) the owner's designated representative.

(b) If the offer cannot be served personally or by certified mail, or if the owner or the owner's designated representative cannot be found, notice of the offer shall be given by publication in a newspaper of general circulation in the county in which the property is located or in the county where the owner was last known to reside. The notice must be in the following form:

NOTICE

TO: ______________________ (owner(s)),

(TM) for a ________________ ________________ (condemnor) needs your property for a ________________ ________________ (general description of the property to be acquired). We have made you a formal offer for this property that is now on file in the Clerk's Office in the County Court House. Please pick up the offer. If you do not respond to this notice or accept the offer by __________ (a date 30 days from 1st date of publication) __________, we shall file a suit to condemn the property.

______________________________

Condemnor

The condemnor must file the offer with the clerk of the circuit court with a supporting affidavit that diligent search has been made and that the owner cannot be found. The notice shall be published twice as follows:

(1) One (1) notice immediately.
(2) A subsequent publication at least seven (7) days and not more than twenty-one (21) days after the publication under subdivision (1).

(c) The offer to purchase must be in the following form:

UNIFORM PROPERTY OR EASEMENT ACQUISITION OFFER

That __________________________ (condemnor) is authorized by Indiana law to obtain your property or an easement across your property for certain public purposes. __________________________ (condemnor) needs (your property) (an easement across your property) for a ________________ ________________ (brief description of the project) and needs to take __________________________ (legal description of the property or easement to be taken); the legal description may be made
on a separate sheet and attached to this document if additional space is required.

It is our opinion that the fair market value of the (property) (easement) we want to acquire from you is $____, and, therefore, _______ (condemnor) offers you $____ for the above described (property) (easement). You have twenty-five (25) thirty (30) days from this date to accept or reject this offer. If you accept this offer, you may expect payment in full within ninety (90) days after signing the documents accepting this offer and executing the easement, and provided there are no difficulties in clearing liens or other problems with title to land. Possession will be required thirty (30) days after you have received your payment in full.

HERE IS A BRIEF SUMMARY OF YOUR OPTIONS AND LEGALLY PROTECTED RIGHTS:

1. By law, ___________ (condemnor) is required to make a good faith effort to purchase (your property) (an easement) across your property.

2. You do not have to accept this offer and ________ (condemnor) is not required to agree to your demands.

3. However, if you do not accept this offer, and we cannot come to an agreement on the acquisition of (your property) (an easement), ___________ (condemnor) has the right to file suit to condemn and acquire the (property) (easement) in the county in which the property is located.

4. You have the right to seek advice of an attorney, real estate appraiser, or any other person of your choice on this matter.

5. You may object to the public purpose and necessity of this project.

6. If ___________ (condemnor) files a suit to condemn and acquire (your property) (an easement) and the court grants its request to condemn, the court will then appoint three appraisers who will make an independent appraisal of the (property) (easement) to be acquired.

7. If we both agree with the court appraiser's report, then the matter is settled. However, if either of us disagrees with the appraiser's report to the court, either of us has the right to ask for a trial to decide what should be paid to you for the (property) (easement) condemned.

8. If the court appraiser's report is not accepted by either of us, then ________ (condemnor) has the legal option of depositing the amount of the court appraiser's evaluation with the court. And if such a deposit is made with the court, ________ (condemnor) is legally entitled to immediate possession of the (property) (easement). You may, subject to the approval of the court, make withdrawals from the amount deposited with the court. Your withdrawal will in no way affect the proceedings of your case in court, except that, if the final judgment awarded you is less than the withdrawal you have made from the amount deposited, you will be required to pay back to the court the amount of the withdrawal in excess of the amount of the final judgment.

9. The trial will decide the full amount of damages you are to receive. Both of us will be entitled to present legal evidence supporting our opinions of the fair market value of the property or easement. The court's decision may be more or less than this offer. You may employ, at your cost, appraisers and attorneys to represent you at this time or at any time during the course of the proceeding described in this notice. (The condemnor may insert here any other information pertinent to this offer or required by circumstances or law).

10. If you have any questions concerning this matter you may contact us at:

   (full name, mailing and street address, and phone of the condemnor)

This offer was made to the owner(s):

_________________________ of
_________________________ of
_________________________ of
_________________________ of

_______ day of _______ 20___.

BY: ________________________

Agent of: ________________________

(printed name and title)

If you decide to accept the offer of $____ made by ________ (condemnor) sign your name below and mail this form to the address indicated above. An additional copy of this offer has been provided for your file.

ACCEPtANCE OF OFFER

I (We), ___________ ___________, ________________, _______________, owner(s) of the above described property or interest in property, hereby accept the offer of $____ made by ________ (condemnor) on this ________ day of ________, 20___.

_________________________________________________________________

_________________________________________________________________

NOTARY'S CERTIFICATE

STATE OF ___________ )
COUNTY OF ___________ )SS:

Subscribed and sworn to before me this ____ day of ___________, 20___.

My Commission Expires: ___________

(Parted NOTARY PUBLIC)

(d) If the condemnor has a compelling need to enter upon property to restore utility or transportation services interrupted by disaster or unforeseeable events, the provisions of subsections (a), (b), and (c) do not apply for the purpose of restoration of utility or transportation services interrupted by the disaster or unforeseeable events. However, the condemnor shall be responsible to the property owner for all damages occasioned by the entry, and the condemnor shall immediately vacate the property entered upon as soon as utility or transportation services interrupted by the disaster or unforeseeable event have been restored.

SECTION 7. IC 32-24-1-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.5. (a) Except as provided in sections 5.8 and 5.9 of this chapter, this section applies to every person that may exercise the power of eminent domain.

(b) If:

(1) a person that may exercise the power of eminent domain submits a written acquisition offer to the owner of a parcel of real estate under section 5 of this chapter; and

(2) the owner rejects the offer:

the person shall file a complaint under this article to acquire the parcel by the exercise of eminent domain not more than two (2) years after the date the person submitted the written acquisition offer to the owner.

(c) If a person that may exercise the power of eminent domain fails to meet the requirements described in subsection (b) concerning a parcel of real estate, the person may not initiate an action under this article to acquire the parcel through the power of eminent domain for the same project or a substantially similar project for at least three (3) years after the date the two (2) year period described in subsection (b) expires.

SECTION 8. IC 32-24-1-5.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.8. (a) This section applies only to:

(1) the Indiana department of transportation when the department seeks to acquire a parcel of land or a property right for the construction, reconstruction, improvement, maintenance, or repair of a:
(A) state highway; or
(B) toll road project or toll bridge; and
(2) any other person that may exercise the power of eminent domain when the person seeks to acquire a parcel of land or property right for the construction, reconstruction, improvement, maintenance, or repair of a feeder road for an Indiana department of transportation project described in subdivision (1) if the construction, reconstruction, improvement, maintenance, or repair of the feeder road begins not later than five (5) years from the conclusion of the project.

(b) If:
(1) the Indiana department of transportation or other person described in subsection (a)(2) submits a written acquisition offer to the owner of a parcel of real estate under section 5 of this chapter; and
(2) the owner rejects the offer;
the department or other person shall file a complaint under this article to acquire the parcel by the exercise of eminent domain not more than six (6) years after the date the department or other person submitted the written acquisition offer to the owner.

(c) If the Indiana department of transportation or other person fails to meet the requirements described in subsection (b) concerning a parcel of real estate, the department or other person may not initiate an action under this article to acquire the parcel through the power of eminent domain for the same or a substantially similar project for at least three (3) years after the date the six (6) year period described in subsection (b) expires.

SECTION 9. IC 32-24-1-5.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.9. (a) As used in this section, "public utility" means a public utility, municipally owned utility, cooperatively owned utility, joint agency created under IC 8-1-1-2, municipal sanitation department operating under IC 36-9-23, sanitary district operating under IC 36-9-25, or an agency operating as a stormwater utility.

(b) This section applies only to a public utility or pipeline company.

(c) If:
(1) a public utility or pipeline company submits a written acquisition offer to the owner of a parcel of real estate under section 5 of this chapter; and
(2) the owner rejects the offer in writing;
the public utility or pipeline company, to acquire the parcel by the exercise of eminent domain, must file a complaint under this article not more than six (6) years after the date on which the public utility or pipeline company submitted the written acquisition offer to the owner.

(d) If a public utility or pipeline company fails to meet the requirements set forth in subsection (c) concerning a parcel of real estate, the public utility or pipeline company may not initiate an action under this article to acquire the parcel through the power of eminent domain for the same project or a substantially similar project for at least two (2) years after the date on which the six (6) year period described in subsection (c) expires.

SECTION 10. IC 32-24-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A defendant may object to the proceedings:
(1) because the court does not have jurisdiction either of the subject matter or of the person;
(2) because the plaintiff does not have the right to exercise the power of eminent domain for the use sought; or
(3) for any other reason disclosed in the complaint or set up in the objections.

(b) Objections under subsection (a) must be:
(1) in writing;
(2) separately stated and numbered; and
(3) filed not later than the first appearance of thirty (30) days after the date the notice required in section 6 of this chapter is served on the defendant. However, the court may extend the period for filing objections by not more than thirty (30) days upon written motion of the defendant.

(c) The court may not allow pleadings in the cause other than the complaint, any objections, and the written exceptions provided for in section 11 of this chapter. However, the court may permit amendments to the pleadings.

(d) If an objection is sustained, the plaintiff may amend the complaint or may appeal from the decision in the manner that appeals are taken from final judgments in civil actions. All the parties shall take notice and be bound by the judgment in an appeal.

(e) If the objections are overruled, the court shall appoint appraisers as provided for in this chapter. Any defendant may appeal the interlocutory order overruling the objections and appointing appraisers in the manner that appeals are taken from final judgments in civil actions upon filing with the circuit court clerk a bond:
(1) with the penalty that the court fixes;
(2) with sufficient surety;
(3) payable to the plaintiff; and
(4) conditioned for the diligent prosecution of the appeal and for the payment of the judgment and costs that may be affirmed and adjudged against the appellants.

The appeal bond must be filed not later than ten (10) days after the appointment of the appraisers.

(f) All the parties shall take notice of and be bound by the judgment in the appeal.

(g) The transcript must be filed in the office of the clerk of the supreme court not later than thirty (30) days after the filing of the appeal bond. The appeal does not stay proceedings in the cause.

SECTION 11. IC 32-24-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Not later than ten (10) forty-five (45) days before a trial involving the issue of damages, the plaintiff shall, and a defendant may, file and serve on the other party an offer of settlement. Not more than five (5) days after the date offer of settlement is served, the party served may respond by filing and serving upon the other party an acceptance or a counter offer of settlement. The offer must state that it is made under this section and specify the amount, exclusive of interest and costs, that the party serving the offer is willing to accept as just compensation and damages for the property sought to be acquired. The offer or counter offer supersedes any other offer previously made under this chapter by the party.

(b) An offer of settlement is considered rejected unless an acceptance in writing is filed and served on the party making the offer before the trial on the issue of the amount of damages begins.

(c) If the offer is rejected, it may not be referred to for any purpose at the trial but may be considered solely for the purpose of awarding costs and litigation expenses under section 14 of this chapter.

(d) This section does not limit or restrict the right of a defendant to payment of any amounts authorized by law in addition to damages for the property taken from the defendant.

(e) This section does not apply to an action brought under IC 8-1-13-19 (repealed).

SECTION 12. IC 32-24-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) Except as provided in subsection (b), the plaintiff shall pay the costs of the proceedings.

(b) If there is a trial, the additional costs caused by the trial shall be paid as ordered by the court. However, if there is a trial and the amount of damages awarded to the defendant by the judgment, exclusive of interest and costs, is greater than the amount specified in the last offer of settlement made by the plaintiff under section 12 of this chapter, the court shall allow the defendant the defendant's litigation expenses, including reasonable attorney's fees, in an amount not to exceed two thousand five hundred dollars ($2,500); the lesser of:
(1) twenty-five thousand dollars ($25,000); or
(2) the fair market value of the defendant's property or easement as determined under this chapter.

SECTION 13. IC 32-24-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) If the person seeking to take property under this article fails:
(1) to pay the assessed damages and, if applicable, the attorney's fees payable under section 14 of this chapter not later than one (1) year after the appraisers' report is filed, if exceptions are not filed to the report;
(2) to pay:
(A) the damages assessed and, if applicable, attorney's fees payable under section 14 of this chapter if exceptions are filed to the appraisers' report and the exceptions are not sustained; or
(B) the damages assessed and, if applicable, attorney's fees payable under section 14 of this chapter and costs if exceptions are filed to the appraisers' report and the exceptions are sustained;
not later than one (1) year after the entry of the judgment, if an appeal is not taken from the judgment:
(3) to pay the damages assessed and, if applicable, attorney's fees payable under section 14 of this chapter or the judgment rendered in the trial court not later than one (1) year after final judgment is entered in the appeal if an appeal is taken from the judgment of the trial court; or
(4) to take possession of the property and adapt the property for the purpose for which it was acquired not later than fifteen (15) years after the payment of the award or judgment for damages, except where a fee simple interest in the property is authorized to be acquired and is acquired;
the person seeking to acquire the property forfeits all rights in the property as fully and completely as if the procedure to take the property had not begun.
(b) An action to declare a forfeiture under this section may be brought by any person having an interest in the property sought to be acquired. For the purpose of this section, the question of the forfeiture may be raised and determined by direct allegation in any subsequent proceeding, by any other person to acquire the property for a public use. In the subsequent proceedings the person seeking the previous acquisition or the person's proper representatives, successors, or assigns shall be made parties.

SECTION 14. IC 32-24-2-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. If applicable, a landowner who incurs attorney's fees through the exercise of eminent domain under this chapter is entitled to reasonable attorney's fees in accordance with IC 32-24-1-14.

SECTION 15. IC 32-24-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) After the appraisers file their report, any of the defendants may, within a reasonable time fixed by the court, file exceptions to the report, alleging that the appraisement of the property, as made by the appraisers, is not the true cash value of the property. If exceptions are filed, a trial on the exceptions shall be held by the court or before a jury, if asked by either party.
(b) The circuit court clerk shall give notice of filing of the appraisers' report to all known parties to the action and their attorneys of record by certified mail.
(c) Upon the trial of the exceptions, the court may revise, correct, amend, or confirm the appraisement in accordance with the finding of the court or verdict of the jury.
(d) The court shall apportion the costs accruing in the proceedings as justice may require. However, if applicable, a landowner who incurs attorney's fees through the exercise of eminent domain under this chapter is entitled to reasonable attorney's fees in accordance with IC 32-24-1-14.
(e) Changes of venue may be had as in other cases.

SECTION 16. IC 32-24-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A person, firm, partnership, limited liability company, or corporation authorized to do business in Indiana and authorized to:
(1) furnish, supply, transmit, transport or distribute electrical energy, gas, oil, petroleum, water, heat, steam, hydraulic power, or communications by telegraph or telephone to the public or to any town or city; or
(2) construct, maintain or operate turnpikes, toll bridges, canals, public landings, wharves, ferries, dams, aqueducts, street railways, or interurban railways for the use of the public or for the use of any town or city;
may take, acquire, condemn, and appropriate land, real estate, or any interest in the land or real estate to accomplish the essential delivery of services described in subdivisions (1) and (2).
(b) A person described in subsection (a) has all accommodations, rights, and privileges necessary to accomplish the use for which the property is taken. A person acting under subsection (a) may use acquired, condemned, or appropriated land to construct railroad siding, switch, or industrial tracks connecting its plant or facilities with the tracks of any common carrier.

SECTION 17. IC 32-24-4-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:
Chapter 4.5. Procedures for Transferring Ownership or Control of Real Property Between Private Persons
Sec. 1. (a) As used in this section, "public use" means the:
(1) possession, occupation, and enjoyment of a parcel of real property by the general public or a public agency for the purpose of providing the general public with fundamental services, including the construction, maintenance, and reconstruction of highways, bridges, airports, ports, certified technology parks, intermodal facilities, and parks;
(2) leasing of a highway, bridge, airport, port, certified technology park, intermodal facility, or park by a public agency that retains ownership of the parcel by written lease with right of forfeiture; or
(3) use of a parcel of real property to create or operate a public utility, an energy utility (as defined in IC 8-1-2.5-2), or a pipeline company.
The term does not include the public benefit of economic development, including an increase in a tax base, tax revenues, employment, or general economic health.
(b) This chapter applies to a condemnor that exercises the power of eminent domain to acquire a parcel of real property:
(1) from a private person;
(2) with the intent of ultimately transferring ownership or control to another private person; and
(3) for a use that is not a public use.
(c) This chapter does not apply thirty (30) years after the acquisition of the real property.
Sec. 2. As used in this chapter, "condemnor" means a person authorized to exercise the power of eminent domain.
Sec. 3. As used in this chapter, "parcel of real property" means real property that:
(1) is under common ownership; and
(2) a condemnor is seeking to acquire.
Sec. 4. As used in this chapter, "private person" means a person other than a public agency.
Sec. 5. (a) As used in this chapter, "public agency" means:
(1) a state agency (as defined in IC 4-13-1-1);
(2) a unit (as defined in IC 36-1-2-23);
(3) a body corporate and politic created by state statute;
(4) a school corporation (as defined in IC 20-26-2-4); or
(5) another governmental unit or district with eminent domain powers.
(b) The term does not include a state educational institution (as defined in IC 20-12-0.5-1).
Sec. 6. As used in this chapter, "relocation costs" means relocation expenses payable in accordance with the federal Uniform Relocation Assistance Act (42 U.S.C. 4601 through 42 U.S.C. 4655).
Sec. 7. A condemnor may acquire a parcel of real property by the exercise of eminent domain under this chapter only if all the following conditions are met:
(1) At least one (1) of the following conditions exists on the parcel of real property:
(A) The parcel contains a structure that, because of:
(i) physical condition;
(ii) use; or
(iii) occupancy;
constitutes a public nuisance;
(B) The parcel contains a structure that is unfit for human habitation or use because the structure:
(i) is dilapidated;
(ii) is unsanitary;
(iii) is unsafe;
(iv) is vermin infested; or
(v) does not contain the facilities or equipment required by applicable building codes or housing conditions.
A determination concerning whether a condition described in this section has been met is subject to judicial review in an eminent domain proceeding, the mediation occurs as follows:
(A) The court shall appoint a mediator not later than ten (10) days after the request for mediation is filed.
(B) The condemnor shall engage in good faith mediation with the owner, including the consideration of a reasonable alternative to the exercise of eminent domain.
(C) The mediation must be concluded not later than ninety (90) days after the appointment of the mediator.
(D) The condemnor shall pay the costs of the mediator.

3) If the owner files a request for mediation at the time the owner files an objection or exception to an eminent domain proceeding, the mediation occurs as follows:
(A) The court shall appoint a mediator not later than ten (10) days after the request for mediation is filed.
(B) The condemnor shall engage in good faith mediation with the owner, including the consideration of a reasonable alternative to the exercise of eminent domain.
(C) The mediation must be concluded not later than ninety (90) days after the appointment of the mediator.
(D) The condemnor shall pay the costs of the mediator.

A determination concerning whether a condition described in this section has been met is subject to judicial review in an eminent domain proceeding concerning the parcel of real property. If a court determines that an eminent domain proceeding brought under this chapter is unauthorized because the condemnor did not meet the conditions described in this section, the court shall order the condemnor to reimburse the owner for the owner's reasonable attorney's fees that the court finds were necessary to defend the action.

Sec. 8. Notwithstanding IC 32-24-1, a condemnor that acquires a parcel of real property through the exercise of eminent domain under this chapter shall compensate the owner of the parcel as follows:

1) For agricultural land:
(A) either:
   (i) payment to the owner equal to one hundred twenty-five percent (125%) of the fair market value of the parcel as determined under IC 32-24-1; or
   (ii) upon the request of the owner and if the owner and condemnor both agree, transfer to the owner of an ownership interest in agricultural land that is equal in acreage to the parcel acquired through the exercise of eminent domain;
   (B) payment of any other damages determined under IC 32-24-1 and any loss incurred in a trade or business that is attributable to the exercise of eminent domain; and
   (C) payment of the owner's relocation costs, if any.

2) For a parcel of real property occupied by the owner as a residence:
(A) payment to the owner equal to one hundred fifty percent (150%) of the fair market value of the parcel as determined under IC 32-24-1;
(B) payment of any other damages determined under IC 32-24-1 and any loss incurred in a trade or business that is attributable to the exercise of eminent domain; and
(C) payment of the owner's relocation costs, if any.

Sec. 9. (a) Not later than forty-five (45) days before a trial involving the issue of compensation, the condemnor shall, and an owner may, file and serve on the other party an offer of settlement. Not more than five (5) days after the date the offer of settlement is served, the party served may respond by filing and serving upon the other party an acceptance or a counter offer of settlement. The offer must state that it is made under this section and specify the amount, exclusive of interest and costs, that the party serving the offer is willing to accept as just compensation and damages for the property sought to be acquired. The offer or counter offer supersedes any other offer previously made under this chapter by the party.
(b) An offer of settlement is considered rejected unless an acceptance in writing is filed and served on the party making the offer before the trial on the issue of the amount of damages begins.
(c) If the offer is rejected, it may not be referred to for any purpose at the trial but may be considered solely for the purpose of awarding costs and litigation expenses under section 10 of this chapter.
(d) This section does not limit or restrict the right of an owner to payment of any amounts authorized by law in addition to damages for the property taken from the owner.

Sec. 10. (a) Except as provided in subsection (b), the condemnor shall pay the costs of the proceedings.
(b) If there is a trial, the additional costs caused by the trial shall be paid as ordered by the court. However, if there is a trial and the amount of damages awarded to the owner by the judgment, exclusive of interest and costs, is greater than the amount specified in the last offer of settlement made by the condemnor under section 9 of this chapter, the court shall require the condemnor to pay the owner's litigation expenses, including reasonable attorney's fees, in an amount that does not exceed twenty-five percent (25%) of the cost of the acquisition.

Sec. 11. (a) This section applies to a parcel of real property located in a project area:
(1) that is located in only one (1) county;
(2) that is at least ten (10) acres in size; and
(3) in which a condemnor or its agents have acquired clear title to at least ninety percent (90%) of the parcels in the project area.
(b) As used in this section, "project area" means an area designated by a condemnor and the legislative body for the condemnor for economic development.
(c) Notwithstanding sections 7 and 8 of this chapter, a condemnor may acquire a parcel of real property by the exercise of eminent domain under this section only if all of the following conditions are met:
(1) The parcel of real property is not occupied by the owner of the parcel as a residence.
(2) The legislative body for the condemnor adopts a resolution by a two-thirds (2/3) vote that authorizes the condemnor to exercise eminent domain over a particular
A person who acquires a parcel of real property through the exercise of eminent domain under this section shall compensate the owner of the parcel as follows:

1. Payment to the owner equal to one hundred twenty-five percent (125%) of the fair market value of the parcel as determined under IC 32-24-1.
2. Payment of any other damages as determined under IC 32-24-1 and any loss incurred in a trade or business that is attributable to the exercise of eminent domain.
3. Payment of the owner's relocation costs, if any.

(e) The condemnor may not acquire a parcel of real property through the exercise of eminent domain under this section if the owner of the parcel demonstrates by clear and convincing evidence that:

1. The location of the parcel is essential to the viability of the owner's commercial activity; and
2. The payment of damages and relocation costs cannot adequately compensate the owner of the parcel.

(f) The court shall award the payment of reasonable attorney's fees to the owner of a parcel in accordance with this chapter.

SECTION 18. IC 32-24-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 7. Procedure for Libraries

Sec. 1. This chapter applies to the exercise of eminent domain by a library board (as defined in IC 36-12-1-3). Notwithstanding any other law, a library board may exercise eminent domain only if it complies with this chapter.

Sec. 2. A library board may exercise eminent domain only if one (1) of the following legislative bodies adopts a resolution specifically authorizing the library board to exercise eminent domain over a particular parcel of land for a specific purpose:

1. If the library district is located entirely within the corporate boundaries of a municipality, the legislative body of the municipality.
2. If the library district:
   a. Is not described by subdivision (1); and
   b. Located entirely within the boundaries of a township;

3. If the library district is not described by subdivision (1) or (2), the legislative body of each county in which the library district is located.

Sec. 3. The resolution described in section 2 of this chapter must specifically describe:

1. The parcel of land that the library board seeks to acquire by exercising eminent domain;
2. The purpose for which the parcel of land is to be acquired; and
3. Why the exercise of eminent domain is necessary to accomplish the library board's purpose.

SECTION 19. IC 36-7-2-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Sec. 5.5. A unit may not require that a lawfully erected sign be removed or altered as a condition of issuing:

1. A permit;
2. A license;
3. A variance; or
4. Any other order concerning land use or development;

unless the owner of the sign is compensated in accordance with IC 32-24 or has waived the right to and receipt of damages in writing.

SECTION 20. IC 36-7-14-32.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Sec. 32.5. (a) The commission may acquire a parcel of real property by the exercise of eminent domain when the following conditions exist:

1. The real property is an unsafe premises (as defined in IC 36-7-9-4) and is subject to an order issued under IC 36-7-9-5.
2. The owner of the real property has not complied with the order issued under IC 36-7-9-5.
3. The real property is not being used as a residence or for a business enterprise.

SEC. 21. IC 36-7-15.1-22.5, AS AMENDED BY P.L.185-2005, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Sec. 22.5. (a) The commission may acquire a parcel of real property by the exercise of eminent domain when the following conditions exist:

1. The real property is an unsafe premises (as defined in IC 36-7-9-4) and is subject to an order issued under IC 36-7-9-5.
2. The commission's designated hearing examiner shall conduct a public meeting to determine whether a parcel of real property has the characteristics set forth in subsection (a). Each person holding a fee or life estate interest of record in the property must be given notice by first class mail of the time and date of the hearing at least ten (10) days before the hearing and is entitled to present evidence and make arguments at the hearing.
3. If the commission considers it necessary to acquire real property under this section, the commission shall adopt a resolution setting out the commission's determination to exercise that power and directing the commission's attorney to file a petition in the name of the city on behalf of the department in the circuit or superior court with jurisdiction in the county.
4. Eminent domain proceedings under this section are governed by IC 32-24.
5. The commission shall use real property acquired under this section for one (1) of the following purposes:

1. Sale in an urban homestead program under IC 36-7-17.
2. Sale to a family whose income is at or below the county's median income for families.
3. Sale or grant to a neighborhood development corporation with a condition in the granting clause of the deed requiring the nonprofit development corporation to lease or sell the property to a family whose income is at or below the county's median income for families or to cause development that will serve or benefit families whose income is at or below the unit's median income for families.
4. Any other purpose appropriate under this chapter so long as it will serve or benefit families whose income is at or below the unit's median income for families.
5. A neighborhood development corporation or nonprofit corporation that receives property under this section must agree to rehabilitate or otherwise develop the property in a manner that is similar to and consistent with the use of the other properties in the area served by the corporation.

SECTION 22. IC 36-7-14-32.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Sec. 32.5. (a) The commission may acquire a parcel of real property by the exercise of eminent domain when the following conditions exist:

1. The real property is an unsafe premises (as defined in IC 36-7-9-4) and is subject to an order issued under IC 36-7-9-5.
2. The real property is capable of being developed or rehabilitated to provide affordable housing for low or moderate income families or to provide other development that will benefit or serve low or moderate income families.
3. The exercise of eminent domain by the commission has a negative impact on the use or value of the neighboring properties or other properties in the community.

(b) The commission or its designated hearing examiner shall conduct a public meeting to determine whether the conditions set forth in subsection (a) exist relative to a parcel of real property. Each person holding a fee or life estate interest of record in the property must be given notice by first class mail of the time and date of the
hearing at least ten (10) days before the hearing, and is entitled to present evidence and make arguments at the hearing.

(c) If the commission considers it necessary to acquire real property under this section, it shall adopt a resolution setting out its determination to exercise that power and directing its attorney to file a petition in the name of the city on behalf of the department in the circuit or superior court in the county.

(d) Eminent domain proceedings under this section are governed by IC 32-24.

(e) The commission shall use real property acquired under this section for one (1) of the following purposes:

1. Sale in an urban homestead program under IC 36-7-17.
2. Sale to a family whose income is at or below the county's median income for families.
3. Sale or grant to a neighborhood development corporation or other nonprofit corporation, with a condition in the granting clause of the deed requiring the nonprofit organization to lease or sell the property to a family whose income is at or below the county's median income for families or to cause development that will serve or benefit families whose income is at or below the county's median income for families. However, a nonprofit organization is eligible for a sale or grant under this subdivision only if the county fiscal body has determined that the nonprofit organization meets the criteria established under subsection (f).
4. Any other purpose appropriate under this chapter so long as it will serve or benefit families whose income is at or below the county's median income for families.

(f) The county fiscal body shall establish criteria for determining the eligibility of neighborhood development corporations and other nonprofit corporations for sales and grants of real property under subsection (e)(3). A neighborhood development corporation or other nonprofit corporation may apply to the county fiscal body for a determination concerning the corporation's compliance with the criteria established under this subsection.

(g) A neighborhood development corporation or nonprofit corporation that receives property under this section must agree to rehabilitate or otherwise develop the property in a manner that is similar to and consistent with the use of the other properties in the area served by the corporation.

SECTION 22. An emergency is declared for this act.
(Reference is to EHB 1010 as reprinted February 28, 2006.)

WOLKINS
BRAY
DVORAK
SIPE
House Conferees
Senate Conferees

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

RESOLUTIONS ON FIRST READING

House Resolution 71
Representative Frizzell introduced House Resolution 71:

A HOUSE RESOLUTION stressing the importance of foreign language instruction.

Whereas, The Committee for Economic Development's February 9, 2006, report, Education for Global Leadership: The Importance of International Studies and Foreign Language Education for U.S. Economic and National Security, warns, "The United States will become less competitive in the global economy because of a shortage of strong foreign language and international studies programs at the elementary, high school, and college levels";

Whereas, A Call to Action for National Foreign Language Capabilities, a report of the National Language Conference, convened by the Office of the Secretary of Defense in partnership with other federal agencies, confirms that the experience of many other countries supports the need for second language instruction to begin well before high school and continue throughout the educational pipeline, foreign language learning experiences must be available and encouraged for all students, and sufficient instructional time must be provided for language learners to acquire meaningful levels of language competence;

Whereas, A United States Senate Resolution designating 2005 the "Year of Foreign Language Study," co-sponsored by Indiana's Senator Richard Lugar, asserts, "That it is the sense of the Senate that foreign language study makes important contributions to a student's cognitive development, our national economy, and our national security."

Whereas, A recent study in Louisiana found that elementary students who received daily instruction in a foreign language outperformed other students on the state basic skills test, regardless of race, gender, or academic level;

Whereas, At the January 5, 2006, United States University Presidents Summit on International Education, President George W. Bush announced the National Security Language Initiative, which will "increase the number of Americans mastering critical need languages and start at a younger age, increase the number of advanced-level speakers of foreign languages, with an emphasis on critical need languages, and increase the number of teachers of critical need languages and resources for them";

Whereas, As early as 1992, the Indiana International Issues Task Force recommended in its report, Indiana in a Changing World: A Strategy for Action, that foreign language study should begin in elementary school for all children;

Whereas, According to the Center for Applied Linguistics, 24% of public elementary schools in the United States report teaching foreign languages, yet, according to the Indiana Department of Education, fewer than 5% of Indiana's elementary students currently study a foreign language, fewer than 15% study a foreign language at the middle school level, and 44% study a foreign language at the high school level; and

Whereas, Undersecretary of Defense David S. Chu recently declared that "improving the nation's foreign language capability requires immediate and long-term engagement: every sector of our society has a role to play". Therefore,

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

SECTION 1. That the Indiana House of Representatives wishes to express its belief that the economic well-being of Hoosiers demands the global perspective provided through the study of foreign languages and cultures.

SECTION 2. That it is of vital importance to develop a strategy for introducing foreign language instruction in the early grades that continues throughout Indiana's educational pipeline.

SECTION 3. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Superintendent of Public Instruction Suellen Reed.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

House Resolution 72
Representatives Lehe, McClain, and Gutwein introduced House Resolution 72:

A HOUSE RESOLUTION urging the establishment of an interim study committee on regional sewer districts.

Whereas, In order to obtain public input and discover possible solutions to problems that exist, it would bebehoove the state to study the issue of regional sewer districts: 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 regional sewer districts.

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.

House Resolution 73
Representatives Turner, Mays, and Murphy introduced House Resolution 73:
A HOUSE RESOLUTION urging the establishment of an interim study committee to study restraint on trade of contact lenses.

Whereas, Citizens of the state of Indiana who wear contact lenses should have the ability to purchase their lenses from their retailer of choice and through all channels of distribution, including alternate channels of distribution;

Whereas, Alternate channels of distribution include mail order companies, Internet retailers, pharmacies, buying clubs, department stores, drugstores, or mass merchandise outlets, without regard to whether the channels are associated with a contact lens prescriber;

Whereas, The practice of exclusive agreements limiting the availability of contact lenses through channels of distribution between manufacturers of contact lenses and prescribers of contact lenses was prohibited under consent decrees entered into by major manufacturers of contact lenses and 32 state attorneys general;

Whereas, Upon expiration of the consent decree, after November 1, 2006, manufacturers of contact lenses will no longer be prohibited from entering into exclusive agreements with prescribers of contact lenses;

Whereas, The practice of exclusive agreements between manufacturers of contact lenses and prescribers of contact lenses is detrimental to the interests of those who wear contact lenses; and

Whereas, The state of Indiana may require a contact lens manufacturer that intends to do business in Indiana to demonstrate the availability of its contact lenses in a commercially reasonable and nondiscriminatory manner within all channels of distribution, including alternate channels of distribution: 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 restraint on trade of contact lenses.

SECTION 2. That the study shall include examining the availability of contact lenses in a commercially reasonable and nondiscriminatory manner within all channels of distribution, including alternate channels of distribution within the state of Indiana, and the effect that any such discriminatory distribution practices have on the citizens of Indiana who wear contact lenses.

SECTION 3. 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.

House Resolution 74

Representatives Welch, T. Harris, Denbo, and Pierce introduced House Resolution 74:

A HOUSE RESOLUTION urging the establishment of an interim study committee to study the value of developing incentives to encourage film and television production and new media development in Indiana.

Whereas, The television and film production companies generate large revenues for states where they are located; and

Whereas, Indiana should make every attempt to stimulate the growth of industry in Indiana: 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 value of developing incentives to encourage film and television production and new media development in Indiana.

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

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

House Resolution 75

Representative Kuzman introduced House Resolution 75:

A HOUSE RESOLUTION urging the establishment of an interim study committee on police and fire pensions.

Whereas, The safety of our communities and our citizens is of utmost importance; and

Whereas, In order to ensure that the police and fire departments of our Hoosier cities and towns are at the highest possible caliber, we should study the possibility of improving the police and fire pensions in order to attract and retain quality individuals for officers and firefighters: 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 police and fire pensions.

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.

House Resolution 77

Representative Porter introduced House Resolution 77:

A HOUSE RESOLUTION urging the establishment of an interim study committee to study statutes, rules, and policies that restrict the ability of school corporations and public schools to maximize the allocation of resources.

Whereas, The Indiana House of Representatives should identify the statutes, rules, policies, and related requirements that restrict or inhibit the ability of school corporations and public schools to maximize the allocation of resources to, and focus efforts on, student instruction and learning, or to develop and implement innovative approaches to improving student achievement: 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 statutes, rules, and policies that restrict the ability of school corporations and public schools to maximize the allocation of resources.

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.

House Resolution 78

Representative Welch introduced House Resolution 78:

A HOUSE RESOLUTION urging the establishment of an interim study committee on the licensure of professional midwives.

Whereas, A growing number of women are placing their trust in midwives;

Whereas, Midwives are attending at an increasing number of the nation's births; and

Whereas, In order to ensure the safety of our citizens, the state of Indiana should study the licensure of professional midwives: 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 on the licensure of professional midwives.

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.
House Resolution 79

Representatives Tincher and Kromkowski introduced House Resolution 79:

A HOUSE RESOLUTION concerning the Public Employees Retirement Fund.

Whereas, The Public Employees' Retirement Fund board of trustees has met its fiscal obligations over the years to maintain the fund in a sound financial condition;

Whereas, One of the factors used by actuaries in providing funding increases to retirees is the anticipation of an annual two percent (2%) cost of living increase; and

Whereas, The Public Employees' Retirement Fund board of trustees has elected to discontinue this factor in projecting its financial needs for the fund, which can have a negative impact on granting future cost of living increases by the Indiana General Assembly; Therefore,

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

SECTION 1. That the Indiana House of Representatives encourages the Public Employees' Retirement Fund board of trustees to anticipate future cost of living increases and provide for these increases in future projections.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to the Public Employees' Retirement Fund board of trustees.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

House Resolution 80

Representative V. Smith introduced House Resolution 80:

A HOUSE RESOLUTION urging the establishment of an interim study committee to study higher education for incarcerated persons.

Whereas, A disproportionate number of persons incarcerated today came from economically depressed communities and were poorly educated, functionally illiterate, and unemployed before incarceration;

Whereas, Studies have shown that participation by inmates in college education programs while incarcerated reduces recidivism, creates a better managed prison environment, positively affects the lives of prisoners and their families, and is a cost-effective public policy, saving tax dollars by reducing the number of repeat offenders and the need for prison space: 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 higher education for incarcerated persons.

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.

House Resolution 81

Representative V. Smith introduced House Resolution 81:

A HOUSE RESOLUTION urging the establishment of an interim study committee to study the effects of incarceration on children, families, communities, and the economy.

Whereas, More prisoners are returning home unprepared for reintegration into society, less connected to community-based social structures, more likely to have health or substance abuse problems, and facing limited availability of jobs, housing, and social services: 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 effects of incarceration on children, families, communities, and the economy.

SECTION 2. That the committee, if established, shall operate under the direction of the legislative council and 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.

House Resolution 82

Representative V. Smith introduced House Resolution 82:

A HOUSE RESOLUTION urging the establishment of an interim study committee on the food service in prisons.

Whereas, In order to ensure that the caloric intake, nutritional values, and cost of providing food to the prison population are adequate, a committee should further investigate these issues: 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 food service in prisons.

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.

House Resolution 83

Representative C. Brown introduced House Resolution 83:

A HOUSE RESOLUTION urging the legislative council to assign the Indiana health finance commission the duty of monitoring and reporting on the impact of the privatization of services within the Indiana division of family resources and within the county offices that function on behalf of the division.

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

SECTION 1. That the Indiana health finance commission, subject to the approval of the legislative council, shall monitor and report on the privatization by the Indiana department of administration (IDOA) and the Indiana family and social services administration (FSSA) of programs and services of the Indiana division of family resources and the county offices that are under the division's authority.

SECTION 2. The monitoring and reporting by the commission must be for a period that ends on December 31, 2009, and must cover the following: (1) The total fiscal impact of the privatization. (2) The impact of the privatization on state employees, including county employees. (3) The impact on the availability of, access to, and cost of services for clients, and the impact on clients and their families.

SECTION 4. That the commission shall report at least annually to the general assembly, the legislative council, and the governor. The report to the general assembly shall be made no later than January 1 of each year.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

House Resolution 84

Representatives Welch, Ruppel, Burton, and Duncan introduced House Resolution 84:

A HOUSE RESOLUTION urging the establishment of an interim study committee on food handling regulations for tax exempt organizations.

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 food handling regulations for tax exempt organizations.
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.

House Resolution 85

Representatives Klinker, Micon, and T. Brown introduced House Resolution 85:

A HOUSE RESOLUTION honoring the Lafayette Central Catholic High School girls' basketball team.

Whereas, The Lafayette Central Catholic High School girls' basketball team is the new Class 1A state champion, and the only team in the history of Indiana girls' basketball to win a championship with more than 7 losses;

Whereas, Lafayette Central Catholic defeated South Central (Elizabeth) by a score of 75-68 to win its first girls' title in any sport;

Whereas, After trailing by as many as nine points in the first quarter, Lafayette Central Catholic fought their way back to a halftime score of 28-27, just one point down;

Whereas, The first half of the game was a defensive battle, keeping the field goal percentages low;

Whereas, Returning after halftime, Lafayette Central Catholic outscored their opponent 19-5 and took a 46-33 lead going into the final eight minutes;

Whereas, The fourth quarter was high scoring, with South Central (Elizabeth) pulling to within three points;

Whereas, Lafayette Central Catholic went on to win the game, never allowing their opponent to get any closer than three points;

Whereas, Lafayette Central Catholic finished their winning season with a record of 18-10; and

Whereas, The members of the Lafayette Central Catholic Knights excel on the court and in the classroom; excellence of this caliber deserves special recognition: 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 accomplishments of the members of the Lafayette Central Catholic girls' basketball team and wishes them continued success in the future.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to team members Andrea Kochert, Rachel Bishop, Kathleen Mills, Alison Roberts, Jenna Jones, Katie Riddell, Sara Beth Reed, Sarah Andrews, Katie Pechin, Grace Walker, and Rebecca Gloyeske, head coach Geoff Salmon, assistant coaches Chad Arnold, Marcus Granger, and Megan Risinger, athletic director Mike Edwards, and principal Joseph Brettnacher.

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

House Resolution 86

Representatives Klinker, Micon, T. Brown, and Lehe introduced House Resolution 86:

A HOUSE RESOLUTION recognizing the Center for Education and Research Information Assurance and Security.

Whereas, The Center for Education and Research Information Assurance and Security (CERIAS) at Purdue University was founded in 1998 and is widely recognized as the world's foremost academic center of excellence on issues of information security and privacy;

Whereas, CERIAS has been organized as a multidisciplinary center at Purdue University with over 100 affiliated faculty, staff, and graduate students on Purdue campuses interacting with business, industry, government, and other academic institutions to conduct research into privacy, trusted communities, computer and network protection, e-commerce safety, cybercrime prevention and investigation, computer-based terrorism, and national defense;

Whereas, CERIAS has succeeded in having the week of March 20 to 26 proclaimed Indiana Information Security Week to bring attention to the threats posed by information security and privacy challenges;

Whereas, This public awareness initiative will feature the 7th Annual CERIAS Information Security Research Symposium during the week of March 20 with a focus on the formation of trust and issues of privacy, security, and risk;

Whereas, This initiative's emphasis on medical information and public safety/emergency management will include coordination with Purdue's e-Enterprise Center conference, featuring presentations by the Regenstrief Center for Healthcare Engineering at Purdue and the Purdue Homeland Security Institute as well as a workshop on avian flu;

Whereas, CERIAS will address best practices for reporting and investigating cyber crime activities by hosting a Coordinated Computer Incident Response workshop in Fort Wayne during this week;

Whereas, Invited guests and speakers will include experts and officials from the state of Indiana and across the nation to discuss and consider information assurance issues of significance to citizens and the public, private, and nonprofit sectors;

Whereas, The Indiana Information Security Awareness Initiative is a continuing effort to advance the practice of information assurance and security so that Indiana citizens and businesses benefit from the safe use of information technology tools, and so that Indiana is acknowledged as a national resource for study and information about information assurance and security; and

Whereas, Indiana Information Security Week's efforts to raise awareness will include the identification of issues arising from new patterns of technology usage, the provision of information and resources to agencies, business leaders, and organizations to increase the security and privacy compliance skills of those who engage in a variety of online activities, and the provision of information and assistance to public decision makers for use in developing appropriate security policies and legislation: 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 supports CERIAS in proclaiming the week of March 20 to 26 as Indiana Information Security Week to bring attention to the threats posed by information security and privacy challenges and encourages the organization to continue to seek answers to the problems of security in the twenty-first century and beyond.

Senate Concurrent Resolution 9

The Speaker handed down Senate Concurrent Resolution 9, sponsored by Representatives Woodruff and Summers:

A CONCURRENT RESOLUTION naming the Family and Social Services Administration as lead agency to oversee and update the development of a comprehensive plan for services for individuals of all ages with autism.

Whereas, Under IC 12-11-7-5, the Indiana Commission on Autism is directed to oversee and update the development of a comprehensive plan for services for individuals of all ages with autism;

Whereas, Currently no plan exists;

Whereas, There is a need for a single agency to take the lead in establishing a comprehensive plan for services for individuals with autism; and

Whereas, The Indiana Commission on Autism believes that the Family and Social Services Administration is best suited to develop a working relationship among the department of education, the division of mental health and addiction, the division of disability, aging, and rehabilitative services, and other appropriate agencies
and interested parties necessary to establish this comprehensive plan: 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 urges the Indiana Commission on Autism to name the Family and Social Services Administration as lead agency to oversee and update the development of a comprehensive plan for services for individuals of all ages with autism.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

Senate Concurrent Resolution 39
The Speaker handed down Senate Concurrent Resolution 39, sponsored by Representative Goodin:

A CONCURRENT RESOLUTION urging the Indiana department of transportation to name the new bridge over Big Graham Creek (near the intersection of State Road 3 and State Road 250) in honor of Trooper George Forster.

Whereas, While on routine patrol near Paris Crossing in Jennings County on May 17, 1941, Trooper George Forster's patrol car was struck by a truck towing a horse trailer;

Whereas, Trooper Forster was killed in the accident;

Whereas, Trooper Forster's death was the first traffic related fatality to occur involving an on-duty Indiana State Police trooper;

Whereas, Trooper Forster, who was 25 years of age at the time of his death, had been appointed to the Indiana State Police on September 1, 1938, and had served as a patrolman working out of the Seymour post;

Whereas, Trooper Forster loved his job and strove to be the best trooper he could be;

Whereas, As a member of the Indiana State Police, Trooper Forster provided the best in quality service and earned the highest respect and confidence of the citizens of Indiana;

Whereas, Trooper Forster, along with all the men and women of the Indiana State Police, deserves special recognition; and

Whereas, Trooper Forster gave his life protecting the citizens of the state of Indiana, for which there is no greater sacrifice: 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 recognizes the achievements of the 2006 home school graduates and commends them on their accomplishment: 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 Senate recognizes the Indiana Foundation for Home Schooling for hosting a graduation ceremony for graduating home school students.

SECTION 2. That the Indiana Senate congratulates each member of the 2006 Home School Graduating Class.

SECTION 3. The Secretary of the Senate is hereby directed to transmit a copy of this resolution to Beth Patterson of the Indiana Foundation for Home Schooling.

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

Senate Concurrent Resolution 61
The Speaker handed down Senate Concurrent Resolution 61, sponsored by Representatives Borror and GiaQuinta:

A CONCURRENT RESOLUTION congratulating the Fort Wayne Bishop Luers High School girls basketball team on its Class 3A girls state basketball championship.

Whereas, Ninth ranked Fort Wayne Bishop Luers defeated seventh ranked Evansville Memorial to win the Class 3A girls basketball state championship by a score of 65 - 54;

Whereas, This victory gave the Knights a record fifth state championship; no other school has more than three;

Whereas, This year's victory was the second state title for fifth-year coach Teri Rosinski, who had guided the Knights to the 3A title in 2002 and a runner-up finish in 2004;

Whereas, The Knights, who had a 24-4 record for the season, had a strong first quarter fired by Vini Dawson's 10 points, and outscored Evansville Memorial 24-10, tying a Class 3A state record for the most points in a quarter;

Whereas, Fort Wayne Bishop Luers was led by freshman Kelsey Wyss, who scored 21 points and had eight rebounds, and sophomore Amanda Pedro, who scored 13 points and had 14 rebounds;

Whereas, The Evansville Memorial Tigers never got closer than seven points throughout the game;

Whereas, Fort Wayne Bishop Luers finished the season with 17 straight victories;

Whereas, Teri Rosinski became the third woman to both play and coach in the state finals and, in 2002, the first to win a state championship; and

Whereas, Excellence of this caliber deserves special recognition: 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 the members of the Bishop Luers High School girls basketball team on their victory in the Class 3A state basketball championship and wishes them continued success in the future.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to each member of the team, Coach Teri Rosinski, and Mary Keefer, principal of Fort Wayne Bishop Luers 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.
Senate Concurrent Resolution 62

The Speaker handed down Senate Concurrent Resolution 62, sponsored by Representatives Klinker, Micon, and T. Brown:

A CONCURRENT RESOLUTION congratulating the Central Catholic girls basketball team on winning the Class A State Championship Title.

Whereas, The 31st Annual IHSAA Girls Basketball State Finals were held on March 4, 2006 at Conseco Fieldhouse in Indianapolis;

Whereas, In regional and semi-state competition, the Central Catholic Knights defeated Indianapolis Lutheran, Tri-Central, and Argos to earn the opportunity to compete in the State Finals;

Whereas, After opening the season with five straight losses, Central Catholic finished their title run at a record-setting level. The Knights set Class A title game records for free throws made (32) and attempted (43); and

Whereas, The Central Catholic Knights upset the South Central Rebels 73-68 to capture the school’s first Girls State Basketball Title: 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 the Central Catholic girls basketball team on winning the 2006 Class A State Championship.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this resolution to Lafayette Catholic School System President, Timothy J. Bobillo; Central Catholic Jr./Sr. High School Principal, Joseph A. Brettnacher; Coach, Geoff Salmon; and to each member of the State Champion Knights basketball team.

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

Senate Concurrent Resolution 63

The Speaker handed down Senate Concurrent Resolution 63, sponsored by Representatives Turner, Friend, and McClain:

A CONCURRENT RESOLUTION to congratulate Ana Baracaldo for earning a Prudential Spirit of Community Award.

Whereas, Created in 1995, the Prudential Spirit of Community Awards are presented by Prudential Financial in partnership with the National Association of Secondary School Principals (NASSP). The Prudential Spirit of Community Awards program is America’s largest youth recognition program based exclusively on volunteerism;

Whereas, This prestigious award honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities. In the 11th annual Prudential Spirit of Community Awards, Ana Baracaldo of Converse was named the top high school volunteer in Indiana for 2006. She is a senior at Oak Hill High School;

Whereas, Miss Baracaldo earned this award by giving generously of her time and energy to provide Spanish-language books to children at a needy school in her native country of Colombia. She founded “Books for Peace” after discovering that many children in rural areas of Colombia only go to school through eighth grade, that illiteracy rates are shockingly high there, and that young people often end up working in coca fields because of a lack of education;

Whereas, She aspires to give the Colombian youth a chance to share her love of books and allow them to say no to coca farming by educating themselves. With support from her parents, Miss Baracaldo created a brochure, spoke at churches and Rotary Clubs, wrote to publishers for donations, and solicited funds from companies, community groups, and friends. After collecting more than $3,000 worth of books and $2,000 in cash, she contacted the Colombian Ministry of Education to find a school that needed a library; and

Whereas, As a State Honoree, Miss Baracaldo will receive a $1,000 award, an engraved silver medallion, and a trip to Washington, D.C., May 6-9 for a series of national recognition events. On May 8, a prestigious national selection committee will select five National Honorees from the high school State Honorees. The National Honorees receive additional $5,000 awards, gold medallions, crystal trophies, and $5,000 grants from The Prudential Foundation for nonprofit, charitable organizations of their choice: 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 and honors Miss Ana Baracaldo as a recipient of a Prudential Spirit of Community Award. Recognizing her outstanding record of volunteer service, peer leadership, and community spirit, the Indiana General Assembly wishes Miss Baracaldo continued success in her future endeavors.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this resolution to Ana Baracaldo and her parents; Oak Hill High School Principal, Joel Martin; and Oak Hill United School Corporation Superintendent, James W. Smith.

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.
School for earning the Four Star School Award from the Indiana Department of Education.

Whereas, Each year, the Indiana Department of Education honors selected schools with Indiana’s highest distinction, the Four Star School Award;

Whereas, In order for a state-accredited public school to receive the Four Star School Award, the school must meet Adequate Yearly Progress as defined by the No Child Left Behind Act of 2001. They must also perform in the top twenty-five percent of all public schools in the state in the following four areas: student attendance rates, mathematics proficiency scores, English/language arts proficiency scores, and the percent of students passing both mathematics and English/language arts;

Whereas, On January 30, 2006, Superintendent of Public Instruction, Dr. Suellen Reed, announced the 2004 Four Star School Award recipients. Of the 1,870 schools in Indiana, 198 earned the award; and

Whereas, Mays Elementary, which is part of Rush County Schools, covers portions of four townships and has an enrollment of 200 students. Mays Elementary earned the 2004 Four Star School designation. The school completed the required criteria as well as the additional criteria for state-accredited public schools: 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 Mays Elementary for earning the 2004 Four Star School Award distinction. The students and staff are commended for their hard work and dedication to academic achievement.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this resolution to Dr. Edwin Lyskowski, Rush County Schools Superintendent, and Karen Brown, Mays Elementary Principal.

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.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 8:25 p.m. with the Speaker in the Chair.

Representative Behning, who had been excused, was present. Representative Pflum was excused for the rest of the day.

MESSAGE FROM THE GOVERNOR

Mr. Speaker and Members of the House: On March 13, 2006, I signed into law House Enrolled Acts 1023 and 1049.

MITCHELL E. DANIELS, JR.
Governor

MESSAGE FROM THE SENATE

Mr. Speaker: I hereby transmit Senate Enrolled Acts 22, 42, 100, 145, 157, 161, 234, 247, 269, 297, 300, 353, 369, and 382 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 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 1315:

Conferrees: Landske and Sipes removed

MARY C. MENDEL
Principal Secretary of the Senate

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT

ESB 6-1; filed March 13, 2006, at 4:48 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 6 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 11-13-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) A person sentenced under IC 35-50 shall be released on parole or discharged from the person's term of imprisonment under IC 35-50 without a parole release hearing.

(b) A person sentenced for an offense under laws other than IC 35-50 who is eligible for release on parole, or a person whose parole is revoked and is eligible for reinstatement on parole under rules adopted by the parole board shall, before the date of the person's parole eligibility, be granted a parole release hearing to determine whether parole will be granted or denied. The hearing shall be conducted by one (1) or more of the parole board members. If one (1) or more of the members conduct the hearing on behalf of the parole board, the final decision shall be rendered by the full parole board based upon the record of the proceeding and the hearing conductor's findings. Before the hearing, the parole board shall order an investigation to include the collection and consideration of:

(1) reports regarding the person's medical, psychological, educational, vocational, employment, economic, and social condition and history;

(2) official reports of the person's history of criminality;

(3) reports of earlier parole or probation experiences;

(4) reports concerning the person's present commitment that are relevant to the parole release determination;

(5) any relevant information submitted by or on behalf of the person being considered; and

(6) such other relevant information concerning the person as may be reasonably available.

(c) Unless the victim has requested in writing not to be notified, the department shall notify a victim of a felony (or the next of kin of the victim if the felony resulted in the death of the victim) or any witness involved in the prosecution of an offender imprisoned for the commission of a felony when the offender is:

(1) to be discharged from imprisonment;

(2) to be released on parole under IC 35-50-6-1;

(3) to have a parole release hearing under this chapter;

(4) to have a parole violation hearing;

(5) an escaped committed offender; or

(6) to be released from departmental custody under any temporary release program administered by the department, including the following:

(A) Placement on minimum security assignment to a program authorized by IC 11-10-1-3 or IC 35-38-3-6 and requiring periodic reporting to a designated official, including a regulated community assignment program.

(B) Assignment to a minimum security work release program.

(d) The department shall make the notification required under subsection (c):

ESB 6-1; filed March 13, 2006, at 4:48 p.m.

CONFEERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT

ESB 6-1; filed March 13, 2006, at 4:48 p.m.

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 1315:

Conferrees: Landske and Sipes removed

MARY C. MENDEL
Principal Secretary of the Senate
The department shall supply the information to a victim (or a next of kin of a victim in the appropriate case) and a witness at the address supplied to the department by the victim (or next of kin) or witness. A victim (or next of kin) is responsible for supplying the department with any change of address or telephone number of the victim (or next of kin).

(c) The probation officer conducting the presentence investigation shall inform the victim and witness described in subsection (c), at the time of the interview with the victim or witness, of the right of the victim or witness to receive notification from the department under subsection (c). The probation department for the sentencing court shall forward the most recent list of the addresses or telephone numbers, or both, of victims to the department of correction. The probation department shall supply the department with the information required by this section as soon as possible but not later than five (5) days from the receipt of the information from the victim. A victim (or next of kin) is responsible for supplying the department with the correct address and telephone number of the victim (or next of kin).

Notwithstanding IC 11-8-5-2 and IC 4-1-6, an inmate may not have access to the name and address of a victim and a witness. Upon the filing of a motion by any person requesting or objecting to the release of victim information, witness information, or both that is retained by the department, the court shall review the information that is the subject of the motion in camera before ruling on the motion.

(g) The notice required under subsection (c) must specify whether the prisoner is being discharged, is being released on parole, is being released on lifetime parole, is having a parole release hearing, is having a parole violation hearing, or has escaped. The notice must contain the following information:

(1) The name of the prisoner.
(2) The date of the offense.
(3) The date of the conviction.
(4) The felony of which the prisoner was convicted.
(5) The sentence imposed.
(6) The amount of time served.
(7) The date and location of the interview (if applicable).

(h) The parole board shall adopt rules under IC 4-22-2 and make available to offenders the criteria considered in making parole release determinations. The criteria must include the:

(1) nature and circumstances of the crime for which the offender is committed;
(2) offender's prior criminal record;
(3) offender's conduct and attitude during the commitment; and
(4) offender's parole plan.

(i) The hearing prescribed by this section may be conducted in an informal manner without regard to rules of evidence. In connection with the hearing, however:

(1) reasonable, advance written notice, including the date, time, and place of the hearing shall be provided to the person being considered;
(2) the person being considered shall be given access, in accord with IC 11-8-5, to records and reports considered by the parole board in making its parole release decision;
(3) the person being considered may appear, speak in the person's own behalf, and present documentary evidence;
(4) irrelevant, immaterial, or unduly repetitious evidence shall be excluded; and
(5) a record of the proceeding, to include the results of the parole board's investigation, notice of the hearing, and evidence adduced at the hearing, shall be made and preserved.

(j) If parole is denied, the parole board shall give the person written notice of the denial and the reasons for the denial. The parole board may not parole a person if it determines that there is substantial reason to believe that the person:

(1) will engage in further specified criminal activity; or
(2) will not conform to appropriate specified conditions of parole.

(k) If parole is denied, the parole board shall conduct another parole release hearing not earlier than five (5) years after the date of the hearing at which parole was denied. However, the board may conduct a hearing earlier than five (5) years after denial of parole if the board:

(1) finds that special circumstances exist for the holding of a hearing; and
(2) gives reasonable notice to the person being considered for parole.

(l) The parole board may parole a person who is outside Indiana on a record made by the appropriate authorities of the jurisdiction in which that person is imprisoned.

(m) If the board is considering the release on parole of an offender who is serving a sentence of life in prison, a determinate term of imprisonment of at least ten (10) years, or an indeterminate term of imprisonment with a minimum term of at least ten (10) years, in addition to the investigation required under subsection (b), the board shall order and consider a community investigation, which must include an investigation and report that substantially reflects the attitudes and opinions of:

(1) the community in which the crime committed by the offender occurred;
(2) law enforcement officers who have jurisdiction in the community in which the crime occurred;
(3) the victim of the crime committed by the offender, or if the victim is deceased or incompetent for any reason, the victim's relatives or friends; and
(4) friends or relatives of the offender.

If the board reconsider for release on parole an offender who was previously released on parole and whose parole was revoked under section 10 of this chapter, the board may use a community investigation prepared for an earlier parole hearing to comply with this subsection. However, the board shall accept and consider any supplements or amendments to any previous statements from the victim or the victim's relatives or friends.

(n) As used in this section, "victim" means a person who has suffered direct harm as a result of a violent crime (as defined in IC 5-2-6.1-8).

SECTION 2. IC 11-13-3-4, AS AMENDED BY SEA 246-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

(1) retained by the parolee;
(2) forwarded to any person charged with the parolee's supervision; and
(3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

(1) consider:
   (A) the residence of the parolee prior to the parolee's incarceration; and
   (B) the parolee's place of employment; and
(2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

(1) periodically undergo a laboratory chemical test (as defined
in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and
(2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

(1) may require a parolee who is a sex and violent offender (as defined in IC 5-2-12-4) to:
   (A) participate in a treatment program for sex offenders approved by the parole board; and
   (B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:
      (i) receives the parole board's approval; or
      (ii) successfully completes the treatment program referred to in clause (A); and
(2) shall:
   (A) require a parolee who is a sex offender (as defined in IC 5-2-12-4) to register with a sheriff (or the police chief of a consolidated city) local law enforcement authority under IC 5-2-12-5;
   (B) prohibit the sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the sex offender obtains written approval from the parole board; and
   (C) prohibit a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense unless the sex offender obtains a waiver under IC 35-38-2-2.5; and
   (D) prohibit a parolee from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age.

The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) a waiver under subdivision (2)(B) or (2)(C). If the parole board allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the sex offender obtains a waiver under IC 35-38-2-2.5.

(i) As a condition of parole, the parole board:

(1) shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5; and
(2) may require a parolee who is a sex offender (as defined in IC 5-2-12-4);
   to wear a monitoring device (as described in IC 35-38-2-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location.

(j) As a condition of parole, the parole board may prohibit, in accordance with IC 35-38-2-2.5, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.

SECTION 3. IC 31-30-1-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.5. A juvenile court may not appoint a person to serve as the guardian or custodian of a child if the person is:

(1) a sexually violent predator (as described in IC 35-38-1-7.5); or
(2) a person who was at least eighteen (18) years of age at the time of the offense and who committed child molesting (IC 35-42-4-3) or sexual misconduct with a minor (IC 35-42-4-9) against a child less than sixteen (16) years of age:

(A) by using or threatening the use of deadly force;
(B) while armed with a deadly weapon; or
(C) that resulted in serious bodily injury.

SECTION 4. IC 35-38-2-2.5, AS AMENDED BY SEA 246-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.5. (a) As used in this section, "offender" means an individual convicted of a sex offense.

(b) As used in this section, "sex offense" means any of the following:

(1) Rape (IC 35-42-4-1).
(2) Criminal deviate conduct (IC 35-42-4-2).
(3) Child molesting (IC 35-42-4-3).
(4) Child exploitation (IC 35-42-4-4(b)).
(5) Vicarious sexual gratification (IC 35-42-4-5).
(6) Child solicitation (IC 35-42-4-6).
(7) Child seduction (IC 35-42-4-7).
(8) Sexual battery (IC 35-42-4-8).
(9) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
(10) Incest (IC 35-46-1-3).

(c) A condition of remaining on probation or parole after conviction for a sex offense is that the offender not reside within one (1) mile of the residence of the victim of the offender's sex offense.

(d) An offender:

(1) who will be placed on probation shall provide the sentencing court and the probation department with the address where the offender intends to reside during the period of probation:
   (A) at the time of sentencing if the offender will be placed on probation without first being incarcerated; or
   (B) before the offender's release from incarceration if the offender will be placed on probation after completing a term of incarceration; or
   (2) who will be placed on parole shall provide the parole board with the address where the offender intends to reside during the period of parole.

(e) An offender, while on probation or parole, may not establish a new residence within one (1) mile of the residence of the victim of the offender's sex offense unless the offender first obtains a waiver from the parole board:

(1) court, if the offender is placed on probation; or
(2) parole board, if the offender is placed on parole;
   for the change of address under subsection (f).

(f) The court or parole board may waive the requirement set forth in subsection (c) only if the court or parole board, at a hearing at which the offender is present and of which the prosecuting attorney has been notified, determines that:

(1) the offender has successfully completed a sex offender treatment program during the period of probation or parole;
(2) the offender is in compliance with all terms of the offender's probation or parole; and
(3) good cause exists to allow the offender to reside within one (1) mile of the residence of the victim of the offender's sex offense.

However, the court or parole board may not grant a waiver under this subsection if the offender is a sexually violent predator under IC 35-38-1-7.5.

(g) If the court or parole board grants a waiver under subsection (f), the court or parole board shall state in writing the reasons for granting the waiver. The court's written statement of its reasons shall be incorporated into the record.

(h) The address of the victim of the offender's sex offense is confidential even if the court or parole board grants a waiver under subsection (f).
the person has a prior unrelated conviction under this section.

SECTION 6. IC 35-50-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Except as provided in subsection (d) or (e), when a person imprisoned for a felony completes his or her fixed term of imprisonment, less the credit time he or she has earned with respect to that term, he or she shall be:

(1) released on parole for not more than twenty-four (24) months, as determined by the parole board;
(2) discharged upon a finding by the committing court that the person was assigned to a community transition program and may be discharged without the requirement of parole; or
(3) released to the committing court if his or her sentence included a period of probation.

(b) Except as provided in subsection (d). This subsection does not apply to a person described in subsection (d), (e), or (f). A person released on parole remains on parole from the date of his release until he or she completes his or her fixed term. If, in the opinion of the parole board, it is not in the best interest of the community to parole the person, the parole board may reinstate him or her on parole at any time after the revocation.

(d) This subsection does not apply to a person who is a sexually violent predator under IC 35-38-1-7.5, when an offender is a sex offender (as defined in IC 5-2-12-4) and if the offender is discharged from that term by the parole board. In any event, if the person’s parole is revoked, the parole board shall discharge him or her after the period set under subsection (a) or the expiration of the person’s fixed term, whichever is shorter.

(e) This subsection applies to a person who is a sexually violent predator under IC 35-38-1-7.5. When a sexually violent predator completes the person’s fixed term of imprisonment, less credit time earned with respect to that term, the person shall be placed on parole for the remainder of the person’s life.

(f) This subsection applies to a parolee in another jurisdiction who is a sexually violent predator under IC 35-38-1-7.5 and whose parole supervision is transferred to Indiana from another jurisdiction. In accordance with IC 11-13-4-1(2) ( Interstate Compact for Out-of-State Probationers and Parolees) and rules adopted under Article VII (d)(8) of the Interstate Compact for Adult Offender Supervision (IC 11-13-4.5), a parolee who is a sexually violent predator and whose parole supervision is transferred to Indiana is subject to the same conditions of parole as a sexually violent predator convicted in Indiana, including:

(1) lifetime parole (as described in subsection (c)); and
(2) the requirement that the person wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person’s precise location, if applicable.

(g) If a person being supervised on lifetime parole as described in subsection (e) is also required to be supervised by a court, a probation department, a community corrections program, a community transition program, or another similar program upon the person’s release from imprisonment, the parole board may:
(1) supervise the person while he is being supervised by the other supervising agency; or
(2) permit the other supervising agency to exercise all or part of the parole board’s supervisory responsibility during the period in which the other supervising agency is required to supervise the person, if supervision by the other supervising agency will be, in the opinion of the parole board:

(A) at least as stringent; and
(B) at least as effective; as supervision by the parole board.

(h) The parole board is not required to supervise a person on lifetime parole during any period in which the person is imprisoned. However, upon the person’s release from imprisonment, the parole board shall reconsider its supervision of a person on lifetime parole.

SECTION 7. [EFFECTIVE JULY 1, 2006] IC 35-44-3-13, as added by this act, applies only to crimes committed after June 30, 2006.

SECTION 8. [EFFECTIVE JULY 1, 2006] IC 35-50-6-1, as amended by this act, applies only to a person who commits a crime after June 30, 2006.

SECTION 9. [EFFECTIVE UPON PASSAGE] (a) The department of correction shall report to the budget committee on or before August 1, 2006, concerning the estimated costs of implementing IC 11-13-3-4(i), as added by this act, and the feasibility of recovering those costs from offenders.

(b) This SECTION expires July 1, 2007.

SECTION 10. [EFFECTIVE JULY 1, 2006] (a) The department of correction shall report to the legislative council before November 1 of each year concerning the department’s implementation of lifetime parole and GPS monitoring for sex offenders. The report must include information relating to:

(1) the expense of lifetime parole and GPS monitoring;
(2) recidivism; and
(3) any proposal to make the program of lifetime parole and GPS monitoring less expensive or more effective, or both.

(b) The report described in subsection (a) must be in an electronic format under IC 5-14-6.

(c) This SECTION expires November 2, 2010.

SECTION 11. P.L.61-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 1. (a) As used in this SECTION, "committee" refers to the sentencing policy study committee established by subsection (c).

(b) The general assembly finds that a comprehensive study of sentencing laws and policies is desirable in order to:

(1) ensure that sentencing laws and policies protect the public safety;
(2) establish fairness and uniformity in sentencing laws and policies;
(3) determine whether incarceration or alternative sanctions are appropriate for various categories of criminal offenses; and
(4) maximize cost effectiveness in the administration of sentencing laws and policies.

(c) The sentencing policy study committee is established to evaluate sentencing laws and policies as they relate to:

(1) the purposes of the criminal justice and corrections systems;
(2) the availability of sentencing options; and
(3) the inmate population in department of correction facilities.

If, based on the committee’s evaluation under this subsection, the committee determines changes are necessary or appropriate, the committee shall make recommendations to the general assembly for the modification of sentencing laws and policies and for the addition, deletion, or expansion of sentencing options.

(d) The committee shall do the following:

(1) Evaluate the existing classification of criminal offenses into felony and misdemeanor categories. In determining the proper category for each felony and misdemeanor, the committee shall consider, to the extent they have relevance, the following:
(A) The nature and degree of harm likely to be caused by the commission of the offense; whether the offense involves property, irreplaceable property, a person, a number of persons, or a breach of the public trust.
(B) The deterrent effect a particular classification may have on the commission of the offense.
(C) The current incidence of the offense in Indiana.
(D) The rights of the victim.

(2) Recommend structures to be used by a sentencing court in determining the most appropriate sentence to be imposed in a criminal case, including any combination of imprisonment, probation, restitution, community service, or house arrest. The
committee shall also consider the following:
(A) The nature and characteristics of the offense.
(B) The severity of the offense in relation to other offenses.
(C) The characteristics of the defendant that mitigate or aggravate the seriousness of the criminal conduct and the punishment deserved for that conduct.
(D) The defendant's number of prior convictions.
(E) The available resources and capacity of the department of correction, local confinement facilities, and community based sanctions.
(F) The rights of the victim.

The committee shall include with each set of sentencing structures an estimate of the effect of the sentencing structures on the department of correction and local facilities with respect to both fiscal impact and inmate population.

(3) Review community corrections and home detention programs for the purpose of:
(A) standardizing procedures and establishing rules for the supervision of home detainees; and
(B) establishing procedures for the supervision of home detainees by community corrections programs of adjoining counties.

(4) Determine the long range needs of the criminal justice and corrections systems and recommend policy priorities for those systems.

(5) Identify critical problems in the criminal justice and corrections systems and recommend strategies to solve the problems.

(6) Assess the cost effectiveness of the use of state and local funds in the criminal justice and corrections systems.

(7) Recommend a comprehensive community corrections strategy based on the following:
(A) A review of existing community corrections programs.
(B) The identification of additional types of community corrections programs necessary to create an effective continuum of corrections sanctions.
(C) The identification of categories of offenders who should be eligible for sentencing to community corrections programs and the impact that changes to the existing system of community corrections programs would have on sentencing practices.
(D) The identification of necessary changes in state oversight and coordination of community corrections programs.
(E) An evaluation of mechanisms for state funding and local community participation in the operation and implementation of community corrections programs.
(F) An analysis of the rate of recidivism of clients under the supervision of existing community corrections programs.

(8) Propose plans, programs, and legislation for improving the effectiveness of the criminal justice and corrections systems.

(9) Evaluate the use of faith based organizations as an alternative to incarceration.

(10) Study issues related to sex offenders, including:
(A) lifetime parole;
(B) GPS or other electronic monitoring;
(C) a classification system for sex offenders;
(D) recidivism; and
(E) treatment.

The committee may study other topics assigned by the legislative council or as directed by the committee chair. The committee may meet as often as necessary.

(f) The committee consists of nineteen (19) twenty (20) members appointed as follows:
(1) Four (4) members of the senate, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the president pro tempore of the senate.
(2) Four (4) members of the house of representatives, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the speaker of the house of representatives.
(3) The chief justice of the supreme court or the chief justice's designee.
(4) The commissioner of the department of correction or the commissioner's designee.
(5) The director of the Indiana criminal justice institute or the director's designee.
(6) The executive director of the prosecuting attorneys council of Indiana or the executive director's designee.
(7) The executive director of the public defender council of Indiana or the executive director's designee.
(8) One (1) person with experience in administering community corrections programs, appointed by the governor.
(9) One (1) person with experience in administering probation programs, appointed by the governor.
(10) Two (2) judges who exercise juvenile jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.
(11) Two (2) judges who exercise criminal jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.
(12) One (1) board certified psychologist or psychiatrist who has expertise in treating sex offenders, appointed by the governor to act as a nonvoting advisor to the committee.

The chairman of the legislative council shall appoint a legislative member of the committee to serve as chair of the committee. Whenever there is a new chairman of the legislative council, the new chairman may remove the chair of the committee and appoint another chair.

If a legislative member of the committee ceases to be a member of the chamber from which the member was appointed, the member also ceases to be a member of the committee.

If a legislative member of the committee may be removed at any time by the appointing authority who appointed the legislative member.

If a vacancy exists on the committee, the appointing authority who appointed the former member whose position is vacant shall appoint an individual to fill the vacancy.

The committee shall submit a final report of the results of its study to the legislative council before November 1, 2006. The report must be in an electronic format under IC 5-14-6.

The Indiana criminal justice institute shall provide staff support to the committee.

Each member of the committee is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative and lay members, respectively, of interim study committees established by the legislative council.

The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including the final report.

Except as otherwise specifically provided by this act, the committee shall operate under the rules of the legislative council. All funds necessary to carry out this act shall be paid from appropriations to the legislative council and legislative services agency.

This SECTION expires December 31, 2006.

An emergency is declared for this act.

(Reference is to ESB 6 as reprinted March 1, 2006.)

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

CONFERENCE COMMITTEE REPORT
EHB 1016–1; filed March 13, 2006, at 4:59 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1016 respectfully reports that said two conference have conferred and agreed as follows to wit:

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 alcohol and tobacco.

Delete everything after the enacting clause and insert the following:
SEC. 1. IC 7.1-1-3-44 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 44. The term "farm winery" means a commercial winemaking establishment that produces wine from products allowed by and meets the requirements of IC 7.1-1-12-4.

SEC. 2. IC 7.1-2-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) The commission shall have the power to regulate and prohibit advertising, signs, displays, posters, and designs intended to advertise an alcoholic beverage or the place where alcoholic beverages are sold.

(b) The commission shall not exercise the prohibition power contained in subsection (a), as to any advertisement appearing in a newspaper which:
   (1) is published at least once a week;
   (2) regularly publishes information of current news interest to the community; and
   (3) circulates generally to the public in any part of this state, regardless of where printed.

However, a newspaper shall not include publications devoted to special interests such as labor, religious, fraternal, society, or trade publications or journals, or publications owned or issued by political organizations or parties.

(c) The commission shall not exercise the prohibition power contained in subsection (a) as to any advertisement broadcast over duly licensed radio and television stations.

(d) All advertisements relating to alcoholic beverages, whether published in a newspaper or broadcast over radio or television, shall conform to the rules and regulations of the commission.

(e) The commission shall not exercise the prohibition power contained in subsection (a) as to advertising in the official program of the Indianapolis 500 Race or the Madison Regatta, Inc., Hydroplane Race.

(f) Notwithstanding any other law, the commission may not prohibit the use of an illuminated sign advertising alcoholic beverages by brand name that is displayed within the interior or on the exterior of the premises covered by the permit, regardless of whether the sign is illuminated constantly or intermittently. However, it is unlawful for a primary source of supply or a wholesaler of alcoholic beverages to sell, give, supply, furnish, or grant to, or maintain for a retail or dealer permittee an illuminated advertising sign in a manner that violates the trade practice restrictions of the commission or this title. It is unlawful for a retail or dealer permittee to receive, accept, display, or permit to be displayed, an illuminated advertising sign sold, given, supplied, furnished, granted, or maintained in violation of this subsection. Unless otherwise stated, when a recipient receives an illuminated sign, the illuminated sign becomes the property and responsibility of the recipient.

(g) The commission may not prohibit the advertisement of:
   (1) alcoholic beverages; or
   (2) a place where alcoholic beverages may be obtained;
   in a program, scorecard, handbill, throw-away newspaper, or menu; however, those advertisements must conform to the rules of the commission.

SECTION 3. IC 7.1-3-1-14, AS AMENDED BY P.L.224-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) It is lawful for an appropriate permittee, unless otherwise specifically provided in this title, to sell alcoholic beverages each day Monday through Saturday from 7 a.m., prevailing local time, until 3 a.m., prevailing local time, the following day. Sales shall cease wholly on Sunday at 3 a.m., prevailing local time, and not be resumed until the following Monday at 7 a.m., prevailing local time.

(b) It is lawful for the holder of a retailer's permit to sell the appropriate alcoholic beverages for consumption on the licensed premises only on Sunday from 10 a.m., prevailing local time, until 12:30 a.m., prevailing local time, the following day.

(c) It is lawful for the holder of a permit under this article to sell alcoholic beverages at athletic or sports events held on Sunday upon premises that:
   (1) are described in section 25(a) of this chapter;
   (2) are a facility used in connection with the operation of a paved track more than two (2) miles in length that is used primarily in the sport of auto racing; or
   (3) are being used for a professional or an amateur tournament; beginning one (1) hour before the scheduled starting time of the event or, if the scheduled starting time of the event is 1 p.m. or later, beginning at noon.

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

(e) Notwithstanding subsection (b), if December 31 (New Year's Eve) is on a Sunday, it is lawful for the holder of a retailer's permit to sell the appropriate alcoholic beverages on Sunday, December 31, from 10 a.m., prevailing local time, until 3 a.m., prevailing local time, the following day.

SECTION 4. IC 7.1-3-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) A city or county listed in this subsection that by itself or in combination with any other municipal body acquires by ownership or by lease any stadium, exhibition hall, auditorium, theater, convention center, or civic center may permit the retail sale of alcoholic beverages upon the premises if the governing board of the facility first applies for and secures the necessary permits as required by this title. The cities and counties to which this subsection applies are as follows:

   (1) A consolidated city or its county.
   (2) A city of the second class.
   (3) A county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than one hundred eighty thousand (180,000).
   (4) A county having a population of more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000).
   (5) A county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000).
   (6) A county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).
   (7) A city having a population of more than five thousand one hundred thirty-five (5,135) but less than five thousand two hundred (5,200).
   (8) A county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000).
   (9) A county having a population of more than one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790).
   (b) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) or a township located in such a county that has established a public park with a golf course within its jurisdiction under IC 36-10-3 or IC 36-10-7 may be issued a permit for the retail sale of alcoholic beverages on the premises of any community center within the park, including a clubhouse, social center, or pavilion.

(c) A township that:
   (1) is located in a county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000); and
   (2) acquires ownership of a golf course;
   may permit the retail sale of alcoholic beverages upon the premises of the golf course, if the governing board of the golf course first applies for and secures the necessary permits required by this title.

(d) A township:
   (1) having a population of more than thirty-five thousand (35,000) but less than one hundred thousand (100,000); and
   (2) located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000)
   may be issued a permit for the retail sale of alcoholic beverages on the premises of any community center or social center that is located within the township and operated by the township.

(e) A city that
   (A) has a population of:
       (A) more than fifty-nine thousand seven hundred (59,700)
       but less than sixty-five thousand (65,000); or
       (B) more than forty-six thousand five hundred (46,500) but
may permit the retail sale of alcoholic beverages upon the premises of the golf course if the governing board of the golf course first applies for and secures the necessary permits required by this title.

(f) A city that:

(1) has a population of more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800); and
(2) owns or leases a marina;
may permit the retail sale of alcoholic beverages upon the premises of the marina, if the governing board of the marina first applies for and secures the necessary permits required by this title. The permit may include the carryout sale of alcoholic beverages in accordance with IC 7.1-3-4-6(c), IC 7.1-3-9-9(c), IC 7.1-3-14-4(c), and 905 IAC 1-29 but may not include at-home delivery of alcoholic beverages.

(g) A city listed in this subsection that owns a marina may be issued a permit for the retail sale of alcoholic beverages on the premises of the marina. The permit may include the carryout sale of alcoholic beverages in accordance with IC 7.1-3-4-6(c), IC 7.1-3-9-9(c), IC 7.1-3-14-4(c), and 905 IAC 1-29 but may not include at-home delivery of alcoholic beverages. However, the city must apply for and secure the necessary permits that this title requires. This subsection applies to the following cities:

(1) A city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).
(2) A city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).
(3) A city having a population of more than thirty-two thousand eight hundred (32,800) but less than thirty-three thousand (33,000).
(4) A city having a population of more than thirty-three thousand (33,000) but less than thirty-six thousand (36,000).
(5) A city having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand four hundred (27,400).

(h) Notwithstanding subsection (a), the commission may issue a civic center permit to a person that:

(1) by the person's self or in combination with another person is the proprietor, as owner or lessee, of an entertainment complex; or
(2) has an agreement with a person described in subdivision (1) to act as a concessionaire for the entertainment complex for the full period for which the permit is to be issued.

SECTION 5. IC 7.1-3-1.5-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1.2. As used in this chapter, "applicant" means a person who applies for a trainer certificate under this chapter to train:

(1) alcohol servers; and
(2) individuals who plan to become certified trainers; on the selling, serving, and consumption of alcoholic beverages.

SECTION 6. IC 7.1-3-1.5-1.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1.3. As used in this chapter, "certified trainer" means a person who is issued a trainer certificate under section 4.6 of this chapter.

SECTION 7. IC 7.1-3-1.5-4.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4.2. As used in this chapter, "server certificate" means a certificate issued by the commission under this chapter to an individual who completes a program established or approved under section 6 of this chapter.

SECTION 8. IC 7.1-3-1.5-4.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4.4. As used in this chapter, "trainer certificate" means a certificate issued by the commission under this chapter to an applicant who meets the requirements under section 4.6 of this chapter.

SECTION 9. IC 7.1-3-1.5-4.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4.6. The commission shall issue a trainer certificate to an applicant who:

(1) files the application and pays the fees established by the commission under section 5 of this chapter;
(2) completes a program established or approved under section 6 of this chapter; and
(3) meets the requirements under this chapter and rules adopted by the commission.

SECTION 10. IC 7.1-3-1.5-4.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4.8. A certified trainer may train:

(1) alcohol servers; and
(2) individuals who plan to become certified trainers; on the selling, serving, and consumption of alcoholic beverages.

SECTION 11. IC 7.1-3-1.5-5, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) The commission shall adopt rules under IC 4-22-2 to establish:

(1) an application form;
(2) standards; and
(3) fees;
for certification of a program under this chapter.

(b) The commission shall adopt rules under IC 4-22-2 to otherwise carry out this chapter.

SECTION 12. IC 7.1-3-1.5-6, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. The commission shall require the following standards for certification of a program under this chapter:

(a) The commission shall:

(1) establish a program; and
(2) approve a program established by a third party that meets the requirements of this chapter;
that is designed to educate alcohol servers and individuals who plan to become certified trainers on the selling, serving, and consumption of alcoholic beverages.

(b) A program established or approved under subsection (a) must include the following:

(1) Training by an instructor who:
(A) has knowledge in the subject areas described in this section; and
(B) is a certified trainer under this chapter.
(2) Information on specific subject areas as required by the commission.
(3) A minimum of at least two (2) hours of training to complete the program.
(4) Information on:
(A) state laws and rules regarding the sale and service of alcoholic beverages;
(B) the classification of alcohol as a depressant and the effect of alcohol on the human body, particularly on the ability to drive a motor vehicle;
(C) the effects of alcohol:
(i) when taken with commonly used prescription and nonprescription drugs; and
(ii) on human behavior;
(D) methods of:
(i) identifying and refusing to serve or sell alcoholic beverages to an underage or intoxicated person; and
(ii) handling situations involving an underage or intoxicated person;
(E) methods for properly and effectively:
(i) checking the identification of an individual;
(ii) identifying an illegal identification of an individual; and
(iii) handling situations involving individuals who have provided illegal identification;
(F) security and law enforcement issues regarding the sale and service of alcoholic beverages; and
(G) recognizing certain behavior to assess the amount of alcohol an individual:
(i) has consumed; and
(ii) may safely consume.
(5) One (1) or both of the following:
(A) A written test.
(B) An oral test.

SECTION 13. IC 7.1-3-1.5-8, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) A trainer certificate issued under this chapter expires at a time and date designated by the commission; three (3) years after the date the trainer certificate was issued.

(b) The commission shall adopt rules to establish:

(1) an application form; and

(2) fees,

for the renewal of a certificate under this chapter.

(e) (b) The commission shall send written notice of the upcoming expiration of a certificate to each certificate holder at least sixty (60) days before the expiration of the certificate: The notice must inform the certificate holder of the need to renew and the requirement of payment of the renewal fee. If notice of expiration is not sent by the commission; the certificate holder is not subject to a sanction for failure to renew if: once notice is received from the commission; the certificate is renewed within forty-five (45) days after the receipt of the notice notify a:

(1) dealer permittee at the time the dealer permittee renews a permit described in section 2 of this chapter; and

(2) retailer permittee at the time the retailer permittee renews a permit described in section 4 of this chapter; of the renewal requirements for a trainer certificate under this chapter.

SECTION 14. IC 7.1-3-1.5-9, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. To renew a trainer certificate under this chapter, the certificate holder certified trainer must:

(1) file the renewal application established and provided by the commission; and

(2) pay the renewal fee in the amount established by the commission; of forty-five dollars ($45); and

(3) complete a refresher course established or approved by the commission; not later than the expiration date of the trainer certificate.

SECTION 15. IC 7.1-3-1.5-12, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. A person who operates a program trains:

(1) alcohol servers; or

(2) individuals who plan to become certified trainers;

without a trainer certificate under this chapter commits a Class B infraction.

SECTION 16. IC 7.1-3-1.5-13, AS ADDED BY P.L.161-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) A retailer permittee or dealer permittee who operates an establishment where alcoholic beverages are served or sold must:

(1) ensure that each alcohol server completes a program certified under this established or approved under section 6 of this chapter not later than ninety (90) one hundred twenty (120) days after the date the alcohol server begins employment at the establishment;

(2) require each alcohol server to attend a refresher course that includes the dissemination of new information concerning the program subject areas described in section 6 of this chapter as required by the commission; every three (3) years after the date the alcohol server completes a program; and

(3) maintain training verification records of each alcohol server.

(b) A retailer permittee, or a dealer permittee, or a management representative of a retailer or dealer permittee must complete a program certified under established or approved under section 6 of this chapter:

(1) not later than ninety (90) one hundred twenty (120) days after the date:

(A) the dealer permittee is issued a permit described in section 2 of this chapter; or

(B) the retailer permittee is issued a permit described in section 4 of this chapter; and

(2) every five (5) years after the date the retailer permittee, dealer permittee, or management representative of the retailer or dealer permittee completes a program.

(c) The commission shall notify a:

(1) dealer permittee at the time the dealer permittee renews a permit described in section 2 of this chapter; and

(2) retailer permittee at the time the retailer permittee renews a permit described in section 4 of this chapter; of the requirements under subsections (a) and (b).

(e) (d) The commission may suspend or revoke a retailer permittee's or dealer permittee's permit or fine a retailer permittee or dealer permittee for noncompliance with this section in accordance with IC 7.1-3-23.

SECTION 17. IC 7.1-3-1.5-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. A program established or approved under section 6 of this chapter must provide a server certificate to an individual who successfully completes the program.

SECTION 18. IC 7.1-3-1.5-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. The commission may attend and observe training by a certified trainer under a program established or approved under section 6 of this chapter at any time.

SECTION 19. IC 7.1-3-1.5-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. The commission shall adopt rules under IC 4-22-2 to carry out this chapter.

SECTION 20. IC 7.1-3-7.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The holder of a farm winery brandy distiller's permit may do the following:

(1) Manufacture brandy.

(2) Rectify brandy.

(3) Bottle brandy.

(4) Use brandy that it has manufactured for the purpose of producing fortified wine.

(5) Sell, transport, and deliver brandy that it has manufactured to other wineries.

(6) Sell brandy at wholesale or retail on the permitted premises to consumers by the glass or by the bottle, or both, brandy that it has manufactured.

(b) Upon the approval of the commission, a holder of a farm winery brandy distiller's permit under this chapter may conduct business at not more than three (3) additional locations that are separate from the farm winery brandy distillery. At the additional locations, the holder of the permit may conduct any business that is authorized at the first location, except for the manufacturing or bottling of brandy.

SECTION 21. IC 7.1-3-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The commission may issue a farm winery permit to a person who:

(1) is the proprietor of a farm winery; and wine;

(2) desires to commercially manufacture wine; and

(3) is either:

(A) an individual; or

(B) a partnership, limited liability company, or corporation domiciled in or admitted to do business in Indiana.

A farm winery permit shall be valid from July 1, of the then current year to June 30, of the following year. IC 7.1-3-21-5 does not apply to a farm winery permit issued under this chapter. The commission may not issue a farm winery permit to a person who has not been a continuous and bona fide resident of Indiana for at least one (1) year preceding the date of the application for a farm winery permit.

SECTION 22. IC 7.1-3-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (e) In order to be considered a "farm winery" within the meaning of this title and to be eligible to receive a farm winery permit, a wine-making establishment

(1) must produce wine from grapes, other fruits, or honey produced in this state; and

(2) shall not annually produce sell more than five hundred thousand (500,000) gallons of wine in Indiana, excluding wine shipped to an out-of-state address.
(b) Table wine that is shipped by the winery outside the state and that involves a change of ownership may not be considered as part of the winery's annual production for purposes of subsection (a)(2).

SECTION 23. IC 7.1-3-12-5, AS AMENDED BY P.L.224-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The holder of a farm winery permit:
(1) is entitled to manufacture wine and to bottle wine produced by the permit holder's farm winery;
(2) is entitled to serve complimentary samples of the winery's wine on the licensed premises or an outside area that is contiguous to the licensed premises as approved by the commission if each employee who serves wine on the licensed premises:
(A) holds an employee permit under IC 7.1-3-18-9; and
(B) completes a server training program approved by the commission;
(3) is entitled to sell the winery's wine on the licensed premises to consumers either by the glass, or by the bottle, or both;
(4) is entitled to sell the winery's wine to consumers by the bottle at a farmers' market that is operated on a nonprofit basis;
(5) is entitled to sell wine by the bottle at a farmers' market that is operated on a nonprofit basis to consumers by the glass, or by the bottle, or both;
(6) may not sell, offer to sell, or allow the sale of the wine on the licensed premises;
(7) is exempt from the provisions of IC 7.1-3-14;
(8) is entitled to advertise the name and address of any retailer or dealer who sells wine produced by the permit holder's winery;
(9) is entitled to purchase and sell bulk wine as set forth in this chapter;
(10) is entitled to sell wine as authorized by this section for carryout on Sunday; and
(11) is entitled to sell and ship the farm winery's wine to a person located in another state in accordance with the laws of the other state.

(b) With the approval of the commission, a holder of a permit under this chapter may conduct business at a second location not more than three (3) additional locations that are separate from the winery. At the second location, additional locations, the holder of a permit may conduct any business that is authorized at the first location, except for the manufacturing or bottling of wine.

(c) With the approval of the commission, a holder of a permit under this chapter may, individually or with other permit holders under this chapter, participate in a trade show or an exposition at which products of each permit holder participant are displayed, promoted, and sold. The commission may not grant approval under this subsection to a holder of a permit under this chapter for more than nine (9) thirty (30) days in a calendar year.

SECTION 24. IC 7.1-3-13-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) All premises to be used by an applicant for a wine wholesaler's permit must be described in the application for the permit and in the permit, if the permit is issued. A wine wholesaler may not keep or store wine at any place other than the premises described in the wine wholesaler's application and permit. A person who holds a wine wholesaler's permit and who also holds a beer wholesaler's permit is not disqualified from using multiple premises for the storage of wine because the person holds a beer wholesaler's permit. The holder of a wine wholesaler's permit issued under IC 7.1-4-4.1-13(e) may enter into an agreement to:
(1) locate the wine wholesaler's business within the licensed premises of a farm winery or a farm winery brandy distiller; or
(2) use goods and services provided by a farm winery or a farm winery brandy distiller; or both.
(b) A direct wine seller under IC 7.1-3-26 is not considered an affiliate of a wine wholesaler for purposes of IC 7.1-3-26-7(9) for an agreement under this section.

SECTION 25. IC 7.1-3-13-3, AS AMENDED BY P.L.224-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The holder of a wine wholesaler's permit may purchase, import, and transport wine, brandy, or flavored malt beverage from the primary source of supply. A wine wholesaler may export and transport wine, brandy, or flavored malt beverage by the bottle, barrel, cask, or other container, to points outside Indiana. A wine wholesaler is entitled to sell, furnish, and deliver wine or flavored malt beverage from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery to a wine wholesaler, a wine retailer, a supplemental caterer, a temporary wine permittee, and a wine dealer, but not at retail. A wine wholesaler may sell, furnish, and deliver brandy from inventory that has been located on the wholesaler's premises before the time of invoicing and delivery, but not at retail, only to a person who holds a liquor retailer's permit, a supplemental caterer's permit, or a liquor dealer's permit. A wine wholesaler also may sell and deliver wine to a consumer at the consumer's residence in bottles or other permissible containers in a quantity that does not exceed fifty (50) gallons at any one (1) time: A holder of a wine wholesaler's permit may sell wine to the wine wholesaler's bona fide regular employees.

(b) As used in this section, "brandy" means:
(1) any alcoholic distillate described in 27 CFR 5.22(d) as in effect on January 1, 1983; or
(2) a beverage product that:
(A) is prepared from a liquid described in subdivision (1);
(B) is classified as a cordial or liqueur as defined in 27 CFR 5.22(h) as in effect on January 1, 1997; and
(C) meets the following requirements:
(i) At least sixty-six and two-thirds percent (66 2/3%) of the product's alcohol content is composed of a substance described in subdivision (1).
(ii) The product's label makes no reference to any distilled spirit other than brandy.
(iii) The product's alcohol content is not less than sixteen percent (16%) by volume or thirty-two (32) degrees proof.
(iv) The product contains dairy cream.
(v) The product's sugar, dextrose, or levulose content is at least twenty percent (20%) of the product's weight.
(vi) The product contains caramel coloring.

(c) Nothing in this section allows a wine wholesaler to sell, give, purchase, transport, or export beer (as defined in IC 7.1-1-3-6) unless the wine wholesaler also holds a beer wholesaler's permit under IC 7.1-3-3-1.

(d) A wine wholesaler that also holds a liquor wholesaler's permit under IC 7.1-3-8 may not:
(1) hold a beer wholesaler's permit under IC 7.1-3-3;
(2) possess, sell, or transport beer; or
(3) sell more than one million (1,000,000) gallons of flavored malt beverage during a calendar year.

SECTION 26. IC 7.1-3-18-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The commission may issue an employee's permit to a person who desires to act as:
(1) a clerk in a package liquor store;
(2) an employee who serves wine at a farm winery; or
(3) a bartender, waiter, waitress, or manager in a retail establishment, excepting dining car and boat employees.

(b) A permit authorized by this section is conditioned upon the compliance by the holder with reasonable rules relating to the permit which the commission may prescribe from time to time.

(c) A permit issued under this section entitles its holder to work for any lawful employer. However, a person may work without an employee's permit for thirty (30) days from the date shown on a receipt for a cashier's check or money order payable to the commission for that person's employee's permit application.

(d) A person who, for a package liquor store or retail establishment, is:
(1) the sole proprietor;
(2) a partner, a general partner, or a limited partner in a
partnership or limited partnership that owns the business establishment;
(3) a member of a limited liability company that owns the business establishment; or
(4) a stockholder in a corporation that owns the business establishment;
is not required to obtain an employee's permit in order to perform any of the acts listed in subsection (a).
(c) An applicant may declare on the application form that the applicant will use the employee's permit only to perform volunteer service that benefits a nonprofit organization. It is unlawful for an applicant who makes a declaration under this subsection to use an employee's permit for any purpose other than to perform volunteer service that benefits a nonprofit organization.

(f) An applicant is not entitled to The commission may not issue an employee's permit if: (1) the applicant is serving a sentence for a conviction for operating while intoxicated, including any term of probation or parole. (2) the applicant is a convicted felon, including a term of probation or parole.

(g) The commission may not issue an employee's permit to an applicant who has more than one unrelated convictions for operating while intoxicated and less than two (2) years have elapsed after the applicant completed the applicant's sentence for a conviction for operating while intoxicated; including any term of probation or parole; if:

1) the first conviction occurred less than ten (10) years before the date of the applicant's application for the permit; and
2) the applicant completed the sentence for the second conviction, including any term of probation or parole, less than ten (10) years immediately preceding the date of the applicant's application for the permit, the commission may not grant the issuance of the permit. If the ten (10) years immediately preceding the date of the applicant's application the applicant has:

1) one (1) conviction for operating while intoxicated, and the applicant is not subject to subsection (f); or
2) two (2) unrelated convictions for operating while intoxicated, and the applicant is not subject to subsection (f) or (g);
the commission may grant or deny the issuance of a permit.
(i) The commission shall revoke a permit issued to an employee under this section if:

1) the employee is convicted of a Class B misdemeanor for violating IC 7.1-10.15(a); or
2) the employee is ineligible for the issuance of an employee's permit under subsection (f); is convicted of operating while intoxicated after the issuance of the permit.
The commission may revoke a permit issued to an employee under this section for any violation of this title or the rules adopted by the commission.

SECTION 27. IC 7.1-3-20-16, AS AMENDED BY P.L. 155-2005, SECTION 1, AS AMENDED BY P.L. 214-2005, SECTION 48, AND AS AMENDED BY P.L. 224-2005, SECTION 16, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) A permit that is authorized by this section may be issued without regard to the quota provisions of IC 7.1-3-22.

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

1) was formerly used as part of a union railway station;
2) has been listed in or is within a district that has been listed in the federal National Register of Historic Places maintained pursuant to the National Historic Preservation Act of 1966, as amended; and
3) has been redeveloped or renovated, with the redevelopment or renovation being funded in part with grants from the federal, state, or local government.

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

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

1) on land; or
2) in a historic river vessel;
within a municipal riverfront development project funded in part with state and city money. A permit issued under this subsection may not be transferred.

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

1) was formerly used as part of a passenger and freight railway station; and
2) was built before 1900.
The permit authorized by this subsection may be issued without regard to the proximity provisions of IC 7.1-3-21-11.

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

1) is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and
2) has a population of more than twenty thousand (20,000) but less than twenty-three thousand (23,000).

(g) After June 30, 2005, the commission may issue not more than ten (10) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than five hundred (500) feet from a district, that meets the following requirements:

1) The district has been listed in the National Register of Historic Places maintained under the National Historic Preservation Act of 1966, as amended.
2) A county courthouse is located within the district.
3) A historic opera house listed in the National Register of Historic Places is located within the district.
4) A historic jail and sheriff's house listed in the National Register of Historic Places is located within the district.
The legislative body of the municipality in which the district is located shall recommend to the commission sites that are eligible to be permit premises. The commission shall consider, but is not required to follow, the municipal legislative body's recommendation in issuing a permit under this subsection. An applicant is not eligible for a permit if, less than two (2) years before the date of the application, the applicant sold a retailer's permit that was subject to IC 7.1-3-22 and that was for premises located within the district described in this section or within five hundred (500) feet of the district. A permit issued under this subsection shall not be transferred. The cost of an initial permit issued under this subsection is six thousand dollars ($6,000).

(h) The commission may issue a three-way permit for the sale of alcoholic beverages for on-premises consumption to applicants who will locate as the proprietor, as owner or lessee, or both, of a restaurant within an economic development area under IC 36-7-14 in:

1) a town with a population of more than twenty thousand (20,000); or
2) a city with a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand four hundred
(27,400); located in a county having a population of more than ninety thousand (90,000) but less than one hundred thousand (100,000). The commission may issue not more than five (5) licenses under this section to premises within a municipality described in subdivision (1) and not more than five (5) licenses to premises within a municipality described in subdivision (2). The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted at any time as determined by the commission. Notwithstanding any other law, the minimum bid for an initial license under this subsection is thirty-five thousand dollars ($35,000), and the renewal fee for a license under this subsection is one thousand three hundred fifty dollars ($1,350). Before the district expires, a permit issued under this subsection may not be transferred. After the district expires, a permit issued under this subsection may be renewed, and the ownership of the permit may be transferred, but the permit may not be transferred from the permit premises.

(i) After June 30, 2006, the commission may issue not more than five (5) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than five hundred (500) feet from a district, that meets all of the following requirements:

(1) The district is within an economic development area, an area needing redevelopment, or a redevelopment district as established under IC 36-7-14.
(2) A unit of the National Park Service is partially located within the district.
(3) An international deep water seaport is located within the district.

An applicant is not eligible for a permit under this subsection if, less than two (2) years before the date of the application, the applicant sold a retailer's permit that was subject to IC 7.1-3-22 and that was for premises located within the district described in this subsection or within five hundred (500) feet of the district. A permit issued under this subsection may not be transferred. If the commission issues five (5) new permits under this subsection, and a permit issued under this subsection is later revoked or is not renewed, the commission may issue another new permit, as long as the total number of active permits issued under this subsection does not exceed five (5) at any time. The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted at any time as determined by the commission.

SECTION 28. IC 7.1-3-21-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The commission shall not issue:

1. an alcoholic beverage retailer's or dealer's permit of any type; or
2. a wine wholesaler's or liquor wholesaler's permit; to a person who has not been a continuous and bona fide resident of Indiana for five (5) years immediately preceding the date of the application for a permit.

(b) The commission shall not issue a beer wholesaler's permit to a person who has not been a continuous and bona fide resident of Indiana for one (1) year.

SECTION 29. IC 7.1-3-21-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The commission shall not issue:

1. a liquor wholesaler's permit; or
2. an alcoholic beverage retailer's or dealer's permit; of any type to a partnership unless each member of the partnership possesses the same qualifications as those required of an individual applicant for that particular type of permit.

SECTION 30. IC 7.1-3-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The commission shall not issue:

1. an alcoholic beverage retailer's or dealer's permit of any type; or
2. a wine wholesaler's or liquor wholesaler's permit; to a corporation unless sixty percent (60%) of the outstanding common stock is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

(b) The commission shall not issue a beer wholesaler's permit to a corporation unless at least sixty percent (60%) of the outstanding common stock is owned by persons who have been continuous and bona fide residents of Indiana for one (1) year.

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

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

SECTION 31. IC 7.1-3-21-5.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.2. (a) The commission shall not issue:

1. an alcoholic beverage retailer's or dealer's permit of any type; or
2. a wine wholesaler's or liquor wholesaler's permit; to a limited partnership unless at least sixty percent (60%) of the partnership interest is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

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

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

SECTION 32. IC 7.1-3-21-5.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.4. (a) The commission shall not issue:

1. an alcoholic beverage retailer's or dealer's permit of any type; or
2. a wine wholesaler's or liquor wholesaler's permit; to a limited liability company unless at least sixty percent (60%) of the membership interest is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

(b) The commission shall not issue a beer wholesaler's permit to a limited liability company unless at least sixty percent (60%) of the membership interest is owned by persons who have been continuous and bona fide residents of Indiana for one (1) year.

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

SECTION 33. IC 7.1-3-21-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. Indiana State Fair: (a) The commission shall not issue a permit for the sale of alcoholic beverages on the Indiana state fair grounds during the period of the Indiana State Fair to the Indiana state fair commission.

(b) The holder of a permit under this section is:

1. entitled to sell alcoholic beverages on the state fair grounds to consumers by the glass;
2. entitled to permit multiple vendors of the state fair commission with separate permits at different locations on the state fair grounds to sell alcoholic beverages by the glass under the permit;
3. entitled to receive the permit directly from the commission without local board approval;
4. not subject to quota restrictions under IC 7.1-3-22-3; and
5. entitled to allow a minor to be present in the places...
where alcoholic beverages are sold.
(c) The holder of a permit under this section must comply with
the following requirements:
(1) File a floor plan of the premises where alcoholic
beverages will be served and consumed.
(2) Provide that service of alcoholic beverages may be
performed only by servers certified under IC 7.1-3-1.5.
(3) Allow sales during the times prescribed under
IC 7.1-3-1.14.
(4) Prohibit sales prohibited under IC 7.1-5-10-1 and
IC 7.1-5-10-17.
(5) Operate under rules adopted by the commission to
protect the public interest under IC 7.1-1.1.
SECTION 34. IC 7.1-3-26 IS ADDED TO THE INDIANA CODE
AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
UPON PASSAGE]:
Chapter 26. Direct Wine Seller's Permit
Sec. 1. This chapter does not apply to the serving or selling of:
(1) wine in accordance with IC 7.1-3-12; or
(2) brandy in accordance with IC 7.1-3-7.5.
Sec. 2. As used in this chapter, "applicant" means a person
that applies to the commission for a direct wine seller's permit.
Sec. 3. As used in this chapter, "consumer" means an
individual with an Indiana address who purchases wine from a
seller.
Sec. 4. As used in this chapter, "seller" means the holder of a
direct wine seller's permit issued under this chapter.
Sec. 5. A person located within Indiana or outside Indiana that
wants to sell and ship wine directly to a consumer must be the
holder of a direct wine seller's permit and comply with this
chapter.
Sec. 6. A seller may sell and ship wine directly to a consumer
who meets all of the following requirements:
(1) The consumer is at least twenty-one (21) years of age.
(2) The consumer has an Indiana address.
(3) The consumer intends to use wine purchased under this
chapter for personal use only and not for resale or other
commercial purposes.
(4) Except as provided in subdivision (5), the consumer has
provided to the seller in one (1) initial face-to-face
transaction at the seller's place of business appearing on the
seller's application for a direct wine seller's permit or any
locations authorized by IC 7.1-3-12-5 all the following:
(A) Name, telephone number, Indiana address, or
consumer's Indiana business address.
(B) Proof of age by a state issued driver's license or state
issued identification card showing the consumer to be at
least twenty-one (21) years of age.
(C) A verified statement, made under penalties for
perjury, that the consumer satisfies the requirements of
subdivisions (1) through (3).
(5) If:
(A) before April 1, 2006, the consumer has engaged in a
transaction with a seller in which the seller sold wine to
the consumer and, after April 1, 2006, but before
December 31, 2006, the consumer provides the seller with
a verified statement, made under penalties for perjury,
that the consumer is at least twenty-one (21) years of age;
and
(B) the seller provides the name and Indiana address of
the consumer to the commission before January 15, 2007;
the seller may sell directly to the consumer in accordance
with this chapter.
Sec. 7. (a) The commission may issue a direct wine seller's
permit to an applicant who meets all of the following
requirements:
(1) The applicant is domiciled and has its principal place of
business in the United States.
(2) The applicant is engaged in the manufacture of wine.
(3) The applicant holds and acts within the scope of
authority of an alcoholic beverage license or permit to
manufacture wine that is required:
(A) in Indiana or the state where the applicant is
domiciled; and
(B) by the Tax and Trade Bureau of the United States
Department of the Treasury.
(4) The applicant qualifies with the secretary of state to do
business in Indiana and consents to the personal jurisdiction
of the commission and the courts of Indiana.
(5) The applicant files a surety bond with the commission in
accordance with IC 7.1-3-1, or deposits cash in an escrow
account with the commission, in the amount required of an
applicant for a vintner's permit under IC 7.1-3-1-7.
(6) The applicant:
(A) does not hold a permit or license to wholesale
alcoholic beverages issued by any authority; and
(B) is not owned in whole or in part or controlled by a
person who holds a permit or license to wholesale
alcoholic beverages.
(7) The applicant sells not more than five hundred thousand
(500,000) gallons of wine per year in Indiana, excluding
wine shipped to an out-of-state address.
(8) The applicant has not distributed wine through a wine
wholesaler in Indiana within the one hundred twenty (120)
days immediately preceding the applicant's initial
application for a direct wine seller's permit or the applicant
has operated as a farm winery under IC 7.1-3-12.
(9) The applicant is not the parent, subsidiary, or affiliate of
another entity manufacturing any alcoholic beverage.
(10) The applicant completes documentation regarding the
applicant's application required by the commission.
(b) The commission may issue a direct wine seller's permit to
an applicant who:
(1) meets the requirements under subsection (a); and
(2) holds a permit issued under this title that allows the sale
of an alcoholic beverage at retail.
Sec. 8. (a) The term of a direct wine seller's permit begins:
(1) the date approved by the commission for an initial
application; and
(2) on July 1 to renew a permit;
and expires on June 30 of the following year. A direct wine
seller's permit may be renewed in accordance with rules adopted
by the commission.
(b) The annual direct wine seller's permit fee is one hundred
dollars ($100).
Sec. 9. A direct wine seller's permit entitles a seller to sell and
ship wine to a consumer by receiving and filling orders that the
consumer transmits by electronic or other means if all of the
following conditions are satisfied before the sale or by the times
set forth as follows:
(1) The consumer provides the direct wine seller with the
following:
(A) The verification required by section 6(4) of this
chapter in an initial face-to-face transaction.
(B) Notwithstanding clause (A), if the consumer provided
the information specified in section 6(5)(A) of this
chapter after April 1, 2006, but before December 31,
2006, and the seller provides the name and Indiana
address of the consumer under section 6(5)(B) of this
chapter to the commission before January 15, 2007,
the consumer is not required to comply with section 6(4)
of this chapter.
(2) The direct wine seller meets the following requirements:
(A) Maintains for two (2) years all records of wine sales
made under this chapter. If the records are requested by
the commission, a direct wine seller shall:
(i) make the records available to the commission
during the direct wine seller's regular business hours;
or
(ii) at the direction of the commission, deliver copies to
the commission.
(B) Stamps, prints, or labels on the outside of the
shipping container the following: "CONTAINS WINE.
SIGNATURE OF PERSON AGE 21 OR OLDER
REQUIRED FOR DELIVERY.".
(C) Causes the wine to be delivered by the holder of a
valid carrier's alcoholic beverage permit under
IC 7.1-3-18.
(D) Directs the carrier to verify that the individual personally receiving the wine shipment is at least twenty-one (21) years of age.

(E) Does not ship to any consumer more than two hundred sixteen (216) liters of wine in any calendar year.

(F) Remits to the department of state revenue monthly all Indiana excise, sales, and use taxes on the shipments made into Indiana by the direct wine seller during the previous month.

Sec. 10. It is unlawful for the holder of a farm winery brandy distiller's permit to ship or cause to be shipped branded produced under this title to a consumer.

Sec. 11. A consumer shall provide a direct wine seller with information the direct wine seller reasonably requires, including the consumer's name, Indiana address, telephone number, and other information required by the commission.

Sec. 12. During a permit year, a direct wine seller may not direct ship in Indiana more than twenty-seven thousand (27,000) liters of wine.

Sec. 13. A wine shipment purchased under this chapter must be delivered to:

(1) the consumer, who shall take personal delivery of the shipment at the:
   (A) consumer's residence;
   (B) consumer's business address;
   (C) carrier's business address; or
   (D) address displayed on the shipping container; or

(2) an individual who is at least twenty-one (21) years of age, who shall take personal delivery of the shipment at the:
   (A) consumer's residence;
   (B) consumer's business address;
   (C) carrier's business address; or
   (D) address designated by the consumer and displayed on the shipping container.

Sec. 14. A consumer may not receive more than two hundred sixteen (216) liters of wine in total from one (1) or more direct wine sellers in a calendar year.

Sec. 15. (a) Except as provided in subsections (b) and (c), a person who violates this chapter commits a Class A infraction.

(b) Except as provided in subsection (d), a person who:
   (1) knowingly or intentionally violates this chapter; and
   (2) has one (1) prior unrelated conviction or judgment for an infraction under this section for an act or omission that occurred not more than ten (10) years before the act or omission that is the basis for the most recent conviction or judgment for an infraction:
   commits a Class A misdemeanor.

(c) Except as provided in subsection (d), a person who:
   (1) knowingly or intentionally violates this chapter; and
   (2) has at least two (2) prior unrelated convictions or judgments for infractions under this section for acts or omissions that occurred not more than ten (10) years before the act or omission that is the basis for the most recent conviction or judgment for an infraction:
   commits a Class D felony.

(d) A person who violates section 6(5) of this chapter commits a Class A infraction. The commission may consider an infraction committed under this subsection in its determination of whether to renew a seller's permit.

Sec. 16. If a direct wine seller is charged under section 15 of this chapter with selling to a consumer who does not meet the requirements of section 6 of this chapter, it is a defense to the charge if the direct wine seller obtained from the consumer the verified statement required under section 6(4)(C) and 6(5)(A) of this chapter and produces a copy of the verified statement.

SECTION 35. IC 7.1-4-4.1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) This section applies to the following permits:

(1) Beer wholesaler's permit.
(2) Malt wholesaler's permit.
(3) Liquor wholesaler's permit.
(4) Wine wholesaler's permit.

(b) Except as provided in subsection (c), a permit fee of two thousand dollars ($2,000) is annually imposed for the issuance of each of the permits described in subsection (a).

(c) A permit fee of one hundred dollars ($100) is annually imposed for the issuance of a wine wholesaler's permit to a permit applicant who:

(1) has never previously held a wine wholesaler's permit and anticipates selling less than twelve thousand (12,000) gallons of wine and brandy in a year; or
(2) previously held a wine wholesaler's permit and certifies to the commission that the permit applicant sold less than twelve thousand (12,000) gallons of wine and brandy in the previous year.

SECTION 36. IC 7.1-4-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Power of Commission and Department: The commission and department shall have the power to examine the books, papers, records, and premises of a manufacturer, wholesaler, retailer, or dealer, or direct wine seller's permit holder under this title for the purpose of determining whether the excise taxes imposed by this title have been paid fully and whether the provisions of the title are being complied with.

SECTION 37. IC 7.1-4-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Collection of Annual Excise Fees: The commission shall collect the required annual license fees paid in connection with the issuance of a brewer's permit, a beer wholesaler's permit, a temporary beer permit, a dining car permit of any type, a boat permit of any type, a distiller's permit, a rectifier's permit, a liquor wholesaler's permit, a vintner's permit, a farm winery permit, a farm winery brandy distiller's permit, a wine wholesaler's permit, a wine bottler's permit, a temporary wine permit, a direct wine seller's permit, a salesman's permit, and a carrier's alcoholic permit.

SECTION 38. IC 7.1-5-11-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. Transportation of Unowned Goods Limited: It is unlawful for a person to import or transport an alcoholic beverage that is not at that time the absolute property of an authorized permittee under this title. This section shall not apply to the shipment of an alcoholic beverage from another state in continuous transit through this state into another state unless the shipment is intended to evade a provision of this title. This section shall not prohibit a person, other than permittee, from bringing into this state a quantity of:

- (1) wine not exceeding वारा (म) पार्क पार्क (18) liters; or
- (2) liquor not exceeding one (1) quart;

if the person is a traveler in the ordinary course of travel and if it is not intended for sale to another person.

SECTION 40. IC 7.1-3-1.5-7 IS REPEALED [EFFECTIVE JULY 1, 2006].

SECTION 41. IC 7.1-3-12-6 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 42. P.L.161-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Section 4. (a) As used in this SECTION, "alcohol server" has the meaning set forth in IC 7.1-3-1.5-1.

(b) As used in this SECTION, "certified trainer" has the meaning set forth in IC 7.1-3-1.5-1, as added by this act.

(c) As used in this SECTION, "commission" refers to the alcohol and tobacco commission established by IC 7.1-2-1.

(d) As used in this SECTION, "dealer permittee" has the meaning set forth in IC 7.1-3-1.5-2, as added by this act.
(e) As used in this SECTION, "program" has the meaning set forth in IC 7.1-3-1.5-4, as added by this act.

(f) As used in this SECTION, "trainer certificate" has the meaning set forth in IC 7.1-3-1.5-4, as added by this act.

(g) Notwithstanding IC 7.1-3-1.5-12, as added by this act, a person who is operating a program before July 1, 2005, training alcohol servers or individuals who plan to become certified trainers before July 1, 2006, may continue to operate the program train alcohol servers or individuals who plan to become certified trainers without a certificate issued under IC 7.1-3-1.5 as added by this act; pending the processing of an application for a trainer certificate under this SECTION.

(h) The person described in subsection (g) may submit to the commission an application for a trainer certificate to operate a program under IC 7.1-3-1.5, as added by this act. To be entitled to continue operating training without a trainer certificate under subsection (g), the person must submit the application before March 1, 2006 - 2007.

(i) The person described in subsection (g) shall cease operating a program training alcohol servers and individuals who plan to become certified trainers if:

1. The person fails to submit an application within the time allowed under subsection (h); or

2. The commission notifies the person that the commission has rejected the application submitted by the person under this SECTION.

(j) Notwithstanding IC 7.1-3-1.5-13, as added by this act:

1. A retailer permittee or dealer permittee who is operating an establishment where alcoholic beverages are served or sold must ensure that each alcohol server completes a program certified established or approved under IC 7.1-3-1.5-6, as added amended by this act, not later than:
   (A) January 1, 2008 - 2009; or
   (B) ninety (90) one hundred twenty (120) days after the date the alcohol server begins employment at the establishment;

   whichever is later; and

2. A retailer permittee or a dealer permittee, or a management representative of a retailer or dealer permittee must complete a program certified established or approved under IC 7.1-3-1.5-6, as added amended by this act, not later than:
   (A) January 1, 2008 - 2009; or
   (B) ninety (90) one hundred twenty (120) days after the date the retailer permittee or dealer permittee is issued a retailer permit or dealer permit under IC 7.1-3; whichever is later.

(k) This SECTION expires December 31, 2009-2010.

(Reference is to EHB 1025 as reprinted February 21, 2006.)

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

CONFERENCE COMMITTEE REPORT
EHB 1025–1; filed March 13, 2006, at 5:15 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 1025 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 4, delete lines 32 through 36.

(Reference is to EHB 1025 as reprinted February 21, 2006.)

J. SMITH
DROZDA
KLINKER
SIMPSON

House Conferences Senate Conferences

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

CONFERENCE COMMITTEE REPORT
EHB 1099–1; filed March 13, 2006, at 5:16 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 1099 respectfully reports that said two committee have conferred and agreed as follows to wit:

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

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

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

"Cigarette load" means a small wooden peg that has been coated with a small quantity of explosive composition. Upon ignition of a cigarette containing one (1) of the pegs, a small report is produced.

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

(1) include:

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

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

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

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

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

(A) Snakes or glow worms:

(B) Smoke devices:

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

(D) Trick noisemakers: which include party poppers, booby traps, snappers, trick matches, cigarette lighters, and auto burglar alarms; items referenced in section 8(a) of this chapter.

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

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

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

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

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

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

"Firework" means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of common consumer fireworks, items referenced in section 8(a) of this chapter, and special fireworks. The following items are excluded from the definition of fireworks:

(1) Model rockets.

(2) Toy pistol caps.

(3) Emergency signal flares.

(4) Matches.

(5) Fixed ammunition for firearms.

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

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

(8) Indoor pyrotechnics special effects material.

(9) M-80s, cherry bombs, silver salutes, and any device banned by the federal government.

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

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

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

(1) that consists of a tube up to one-half (½) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition;

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

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

"Illuminating torch" means a cylindrical tube that:

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

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

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

"Importer" means:

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

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

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

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

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

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

(1) consists of a heavy cardboard or paper tube up to two and one-half (2 ½) inches in inside diameter, to which a wooden or plastic base is attached;

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

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

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

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

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

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

"Responding fire department" means the paid fire department that renders fire protection services to a political subdivision.

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

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

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

"Sky rocket" means a device that:
(1) consists of a tube that does not exceed one-half (½) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition;
(2) contains a wooden stick for guidance and stability; and
(3) rises into the air upon ignition, producing a burst of color or noise at the height of flight.

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

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

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

"Special discharge location" means a location designated for the discharge of consumer fireworks by individuals in accordance with rules adopted under section 3.5 of this chapter.

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

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

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

"Wheel" means a pyrotechnic device that:
(1) is attached to a post or tree by means of a nail or string;
(2) contains up to six (6) driver units (tubes not exceeding one-half (½) inch in inside diameter) containing up to sixty (60) grams of composition per driver unit; and
(3) revolves, upon ignition, producing a shower of color and sparks and sometimes a whistling effect.

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

SECTION 2. IC 22-11-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The fire prevention and building safety commission may shall:
(1) adopt rules under IC 4-22-2 for the granting of permits for supervised public displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals; and
(2) establish by rule the fee for the permit, which shall be paid into the fire and building services fund created under IC 22-12-6-1.

(b) The application for a permit required under subsection (a) must:
(1) name a competent operator who is to officiate at the display;
(2) set forth a brief resume of the operator's experience;
(3) be made in writing; and
(4) be received with the applicable fee by the office of the state fire marshal division of fire and building safety at least five (5) business days before the display.

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

(c) Every display shall be handled by a qualified operator approved by the chief of the fire department of the municipality in which the display is to be held. A display shall be located, discharged, or fired as, in the opinion of:
(1) the chief of the fire department of the city or town in which the display is to be held; or
(2) the township fire chief or the fire chief of the municipality nearest the site proposed, in the case of a display to be held outside of the corporate limits of any city or town;

after proper inspection, is not hazardous to property or person.

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

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

(f) A person who possesses, transports, or delivers may not possess, transport, or deliver special fireworks, except as authorized under this section. commits a Class A misdemeanor.

SECTION 3. IC 22-11-14-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.5. The fire prevention and building safety commission may adopt rules under IC 4-22-2 that specify the conditions under which the chief of a municipal or township fire department may grant a permit to a person to sponsor a special discharge location in the municipality or township.

SECTION 4. IC 22-11-14-4 IS ADDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Nothing in this chapter shall be construed to prohibit:
(1) any resident wholesaler, manufacturer, importer, or distributor from selling:
   (A) at wholesale fireworks not prohibited by this chapter; or
   (B) consumer fireworks not approved for sale in Indiana if they are to be shipped directly out of state within five (5) days of the date of sale:
      (i) on the property of the purchaser;
      (ii) on the property of another who has given permission to use the consumer fireworks; or
      (iii) at a special discharge location as set forth in section 3.5 of this chapter;
   (2) the use of fireworks by railroads or other transportation agencies for signal purposes or illumination;
   (3) the sale or use of blank cartridges for:
      (A) a show or theater;
      (B) signal or ceremonial purposes in athletics or sports; or
      (C) use by military organizations;
   (4) the intrastate sale of fireworks not approved for sale in Indiana between interstate wholesalers;
   (5) the possession, sale, or disposal of fireworks, incidental to the public display of Class B fireworks, by wholesalers or other persons who possess a permit to possess, store, and sell Class B explosives from the Bureau of Alcohol, Tobacco, and Firearms and Explosives of the United States Department of the Treasury; or
   (6) the use of indoor pyrotechnics special effects material before an indoor or outdoor proximate audience.

(b) For the purposes of this section, a resident wholesaler, importer, or distributor, is a person who:
(1) is a resident of Indiana;
(2) possesses for storage or resale common fireworks approved or not approved for sale in Indiana;
(3) is engaged in the interstate sale of common fireworks described in subdivision (2) as an essential part of a business that is located in a permanent structure and is open at least six (6) months each year; and
(4) sells common fireworks described in subdivision (2) only to purchasers who provide a written and signed assurance that the fireworks are to be shipped out of Indiana within five (5) days of the date of sale; and
(5) has possession of a certificate of compliance issued by the state fire marshal under section 5 of this chapter.

(c) A purchaser may not provide a written and signed assurance that the fireworks purchased are to be shipped out of Indiana and then sell or use them in Indiana.

SECTION 5. IC 22-11-14-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. (a) A retailer may sell consumer fireworks and items referenced in section 8(a) of this chapter from a tent under the following conditions:
(1) The tent may not be larger than one thousand five hundred (1,500) square feet.
(2) There may be only one (1) tent for each registration granted under section 11(a) of this chapter.
(3) The tent may not be located closer than one hundred (100) feet from a permanent structure.
(4) A vehicle may not be parked closer than twenty (20) feet from the edge of the tent.
A registration under section 11(a) of this chapter is required for operation in 2006 and following years.

For purposes of this subdivision, a retailer includes a resident wholesaler who supplied consumer fireworks to an applicant for a tent registration in 2005.

(10) The retailer holds a valid registration under section 11(a) of this chapter.

(b) A retailer may sell consumer fireworks and items referenced in section 8(a) of this chapter from a Class 1 structure (as defined in IC 22-12-1-4) if the Class 1 structure meets the requirements of any of the following subdivisions:

(1) The structure complied with the rules for a B-2 or M building occupancy classification before July 4, 2003, under the Indiana building code adopted by the fire prevention and building safety commission established under IC 22-12-2-1:
   (A) in which consumer fireworks were sold or stored on or before July 4, 2003; and
   (B) in which no subsequent intervening nonfireworks sales or storage use has occurred.

(2) The structure complied with the rules for a B-2 or M building occupancy classification before July 4, 2003, under the Indiana building code adopted by the fire prevention and building safety commission established under IC 22-12-2-1:
   (A) in which consumer fireworks were sold or stored on or before July 4, 2003;
   (B) in a location at which the retailer was registered as a resident wholesaler in 2005; and
   (C) in which the retailer’s primary business is not the sale of consumer fireworks.

(3) The structure complies with the rules for an H-3 building occupancy classification under the Indiana building code adopted by the fire prevention and building safety commission established under IC 22-12-2-1, or the equivalent occupancy classification adopted by subsequent rules of the fire prevention and building safety commission.

(4) The structure complies with the rules adopted after July 3, 2003, by the fire prevention and building safety commission established under IC 22-12-2-1 for an M building occupancy classification under the Indiana building code.

A registration under section 11(a) of this chapter is required for operation in 2006 and following years.

(c) This subsection does not apply to a structure identified in subsection (b)(1), (b)(2), (b)(3), or (b)(4). A retailer may sell consumer fireworks and items referenced in section 8(a) of this chapter from a structure under the following conditions:

(1) The structure must be a Class 1 structure in which consumer fireworks are sold and stored.

(2) The sales site must comply with all applicable local zoning and land use rules.

(3) The weight of consumer fireworks in the structure may not exceed three thousand (3,000) gross pounds of consumer fireworks.

(4) The retailer holds a valid registration under section 11(a) of this chapter.

(5) A retailer that sold consumer fireworks and operated from a structure with a registration in 2005 may continue in operation in the structure in 2006 and the following years.

A registration under section 11(a) of this chapter is required for operation in 2006 and following years.

(d) The state fire marshal or a member of the division of fire and building safety staff shall, under section 9 of this chapter, inspect tents and structures in which fireworks are sold. The state fire marshal may delegate this responsibility to a responding fire department with jurisdiction over the tent or structure, subject to the policies and procedures of the state fire marshal.

(e) A retailer shall file an application for each retail location on a form to be provided by the state fire marshal.

(f) This chapter does not limit the quantity of items referenced in section 8(a) of this chapter that may be sold from any Class 1 structure that complied with the rules of the fire prevention and building safety commission in effect before May 21, 2003.

SECTION 6. IC 22-11-14-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The state fire marshal shall remove at the expense of the owner, all stocks of fireworks or combustibles possessed, transported, or delivered in violation of this chapter.

(b) The state fire marshal shall stop the shipments and sale of fireworks, novelties, and trick noisemakers unless, prior to shipment into this state for sale, the manufacturer, wholesaler, importer, or distributor of the fireworks, novelties, and trick noisemakers submits to the state fire marshal:

(1) a complete description of each item proposed to be shipped into Indiana;

(2) a written certification that the items are manufactured in accordance with section 1 of this chapter; and

(3) an annual registration fee of one thousand dollars ($1,000). The registration fee shall be collected by the state fire marshal and deposited in the fire and building services fund as set forth in IC 22-12-6-1(c).

A manufacturer, wholesaler, importer, or distributor of fireworks, novelties, and trick noisemakers must submit a list to the state fire marshal on or before June 1 of each year. The list shall contain the name and address of each retail location of each of the customers of the manufacturer, wholesaler, importer, or distributor at which items referenced in section 8(a) of this chapter will be sold. If upon inspection the state fire marshal finds that this chapter has been complied with, an annual certificate of compliance shall be issued to the manufacturer, wholesaler, importer, or distributor. An annual certificate of compliance may not be applied for after June 15 of a year and expires December 31 of the year during which the certificate is issued. Each manufacturer, wholesaler, importer, or distributor must obtain a certificate of compliance. The certificate is not transferable except that a retailer that offers the items for sale to the public is entitled to receive a certified copy of the certificate from the manufacturer, wholesaler, importer, or distributor from which the retailer purchases the items except to a subsequent owner or operator of a business at the same location in accordance with the policies and guidelines of the state fire marshal. A certified copy of the certificate of compliance must be posted in each location where the items are offered for sale to the public. If upon inspection the state fire marshal finds that this chapter has not been complied with, the state fire marshal shall refuse to issue a certificate of compliance and state the reasons for the refusal. A copy of the order denying the issuance of a certificate of compliance and the reasons shall be forwarded to the manufacturer, wholesaler, importer, or distributor.

(c) All fireworks, novelties, and trick noisemakers shipped into Indiana, or manufactured and sold in Indiana, must have distinctly and durably painted, stamped, printed, or marked on the package, box, or container in which the items are enclosed the exact number of pieces in the container.

(d) It is unlawful for a manufacturer, wholesaler, importer, or distributor to sell at wholesale, offer to sell at wholesale, or ship or cause to be shipped into Indiana fireworks, novelties, or trick noisemakers unless the manufacturer, wholesaler, importer, or distributor has been issued and holds a valid certificate of compliance issued under subsection (b). This subsection applies to nonresidents and residents of Indiana.

SECTION 7. IC 22-11-14-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) A person
The state fire marshal shall, within seven (7) days after the receipt of
issuance. However, if a person recklessly, knowingly, or intentionally commits a Class C
infracti on. However, if a person recklessly, knowingly, or intentionally takes an action described in this
subsection within five (5) years after the person previously took an action described in this subsection, whether or not there has been a judgment that the person committed an
infraction in taking the previous action, the person commits a Class C
misdemeanor.
(c) A person less than eighteen (18) years of age who possesses or uses a firework when an adult is not present and responsible at the location of the possession or use commits a Class C
infracti on. However, if a person possesses or uses a firework when an adult is not present and responsible at the location of the possession or use within five (5) years after a previous possession or use by the person as described in this subsection, whether or not there has been a judgment that the person committed an
infracti on in taking the previous action, the person commits a delinquent act under IC 31-37.
(d) A person who ignites, discharges, or uses consumer
day sales stand so that it is easily seen by the public. However, the state fire
marshals' issuance of a permit does not constitute approval of the
fireworks offered for sale by the retailer. The retailer is responsible for determining that all
fireworks which the retailer offers for sale conform to applicable law.
(e) At each retail sales stand, the retailer shall provide:
(f) Fireworks may not be sold at retail from trucks, vans, or
automobiles.
(g) Fireworks, not including those referenced in section 8(a) of this
chapter, may not be sold from or stored at a temporary
stand.
SECTION 9. IC 22-11-14-8 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A person
shall not sell at retail, or offer for sale at retail, or deliver any
fireworks, novelties, or trick noisemakers other than the following
items to a person less than eighteen (18) years of age:
(b) A retailer or wholesaler of consumer fireworks may sell
counter to applicable law.

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who recklessly, knowingly, or intentionally violates section 2(f), 4.5, 5(c), 5(d), 7, or 8(a), 8(c), 8(d), 10, or 11(c) of
this chapter commits a Class A

(b) A person who ignites, discharges, or uses consumer
firesworks at a site other than:

(1) a special discharge location;

(2) the property of the person; or

(3) the property of another who has given permission to use
the consumer fireworks;

of this chapter.

section 2(f), 4.5, 5(c), 5(d), 7, or 8(a), 8(c), 8(d), 10, or 11(c) of
this chapter commits a Class A

(b) A person who ignites, discharges, or uses consumer
firesworks:

(1) after 11 p.m. except on a holiday (as defined in
IC 1-1-9-1(a)) or December 31, on which dates consumer
firesworks may not be ignited, discharged, or used after
midnight; or

(2) before 9 a.m.;

of the date of

(b) Each resident wholesaler shall post in a prominent location in
the wholesaler's place of business a sign that reads as follows:
"Under Indiana law, a resident wholesaler of fireworks may sell
fireworks not approved for sale in Indiana to other resident
wholesalers and to purchasers who provide a written and signed
assurance that the fireworks are to be shipped out of Indiana within five (5) days of the date of sale. A purchaser who provides a written and signed assurance that fireworks purchased are to be shipped out of Indiana within five (5) days of the date of sale and who then sells the fireworks in Indiana or uses them in Indiana commits a Class A misdemeanor, which is punishable by imprisonment for up to one (1) year and a fine of up to five thousand dollars ($5,000)."

The state fire marshal shall provide interstate wholesalers with signs for the purposes of this subsection.

SECTION 9. IC 22-11-14-8 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A person
shall not sell at retail, or offer for sale at retail, or deliver any
fireworks, novelties, or trick noisemakers other than the following
items to a person less than eighteen (18) years of age:

(1) Dipped sticks or wire sparklers. However, total pyrotechnic
composition may not exceed one hundred (100) grams per item.

(2) Cylindrical fountains.

(3) Cone fountains.

(4) Illuminating torches.

(5) Wheels.

(6) Ground spinners.

(7) Flutter sparklers.

(8) Snakes or glow worms.

(9) Smoke devices.

(10) Trick noisemakers, which include:

(A) Party poppers.

(B) Booby traps.

(C) Snappers.

(D) Trick matches.

(E) Cigarette loads.

(F) Auto burglar alarms.

(f) A person who recklessly, knowingly, or intentionally uses
consumer fireworks and the violation causes harm to the
property of a person commits a Class A

(f) A person who recklessly, knowingly, or intentionally uses
consumer fireworks and the violation results in serious bodily
injury to a person commits a Class D felony.

d) An individual who sells consumer fireworks to a person at least eighteen (18) years of
age.

c) An individual who sells consumer fireworks to a person at least eighteen (18) years of
age.

d) An individual who sells an item set forth in subsection (a)
must be at least sixteen (16) years of age.

e) The fire prevention and building safety commission may
adopt rules under IC 4-22-2 establishing procedures to ensure
compliance with the age limitations set forth in this section.

SECTION 10. IC 22-11-14-10 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Each
interstate wholesaler shall keep a record of each sale of special
fireworks, not approved for sale in Indiana. This record must include:

(1) the purchaser's name;

(2) the purchaser's address; and

(3) the date of the sale.

These records shall be kept for three (3) years and be available for
inspection by the fire marshal.

(b) Each resident wholesaler shall post in a prominent location in
the wholesaler's place of business a sign that reads as follows:

(c) The retailer must pay to the state fire marshal an annual permit
issuance. However, if a person recklessly, knowingly, or intentionally

(d) The permit shall be posted by the retailer at the retail sales

(e) A person who recklessly, knowingly, or intentionally uses
consumer fireworks and the violation causes harm to the
property of a person commits a Class A misdemeanor.

(f) A person who recklessly, knowingly, or intentionally uses
consumer fireworks and the violation results in serious bodily
injury to a person commits a Class A

(g) A person who recklessly, knowingly, or intentionally uses
consumer fireworks and the violation results in the death of a
person commits a Class C

(h) A person who knowingly or intentionally fails to collect or
remit to the state the public safety fees due under section 12 of
this chapter commits a Class D

SECTION 8. IC 22-11-14-7 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A retailer
selling fireworks items referenced in section 8(a) of this chapter at
one (1) or more temporary stands must obtain a fireworks stand retail
sales permit, referred to in this section as a "permit", from the state fire
marshals. A retailer who obtains a permit under this section shall keep a record of each sale of
special fireworks, not approved for sale in Indiana. This record must include:

(1) the purchaser's name;

(2) the purchaser's address; and

(3) the date of the sale.

These records shall be kept for three (3) years and be available for
inspection by the fire marshal.

(b) Each resident wholesaler shall post in a prominent location in
the wholesaler's place of business a sign that reads as follows:

"Under Indiana law, a resident wholesaler of fireworks may sell
fireworks not approved for sale in Indiana only to other resident
wholesalers and to purchasers who provide a written and signed
assurance that the fireworks are to be shipped out of Indiana within five (5) days of the date of sale. A purchaser who provides a written and signed assurance that fireworks purchased are to be shipped out of Indiana within five (5) days of the date of sale and who then sells the fireworks in Indiana or uses them in Indiana commits a Class A misdemeanor, which is punishable by imprisonment for up to one (1) year and a fine of up to five thousand dollars ($5,000)."

The state fire marshal shall provide interstate wholesalers with signs for the purposes of this subsection.
Upon receipt of the completed application form, the following rates:

measured by the gross retail income received by a retail merchant

[EFFECTIVE JUNE 1, 2006]:

CODE AS A MONIES FROM RETAILERS AS DESCRIBED IN SUBSECTIONS (B) AND (C).

IC 4-22-2 NECESSARY FOR THE COLLECTION OF THE PUBLIC SAFETY FEE

The retailer shall collect the public safety fee as described in subsection 5(b) of this chapter, or from a tent under section 4.5(a) of this chapter, or from a tent under section 4.5(c) of this chapter, or from a tent under section 4.5(a) of this chapter, or from a tent under section 4.5(c) of this chapter.

from which the retailer proposes to sell the consumer fireworks.

Upon receipt of the completed application form, the accompanying fee, and, if required, the affidavit under subsection (b), the state fire marshal shall issue a certificate of compliance to the retailer for each sales location.

(b) A person seeking a certificate of compliance authorizing the sale of consumer fireworks at retail from a structure identified in section 4.5(b)(1), 4.5(b)(2), or 4.5(c) of this chapter, or from a tent under section 4.5(a) of this chapter shall submit with the application:

(1) an affidavit executed by a responsible party with personal knowledge, establishing that consumer fireworks were sold at retail or wholesale from a structure at the same location as of a date set forth in section 4.5(b)(1), 4.5(b)(2), or 4.5(c) of this chapter, or from a tent as of a date set forth under section 4.5(a)(9) of this chapter; and

(2) proof of sales of consumer fireworks from that location.

(c) A person may not sell consumer fireworks at retail if a certificate of compliance from the state fire marshal has not been issued for the location showing registration under subsection (a).

(d) A certificate of compliance issued to a retailer of consumer fireworks is not transferable except to a subsequent owner or operator of a business at the same location in accordance with the policies and guidelines of the state fire marshal.

SECTION 12. IC 22-11-14-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2006]: Sec. 12. (a) A user fee, known as the public safety fee, is imposed on retail transactions made in Indiana of fireworks, in accordance with section 13 of this chapter.

(b) A person who acquires fireworks in a retail transaction is liable for the public safety fee on the transaction and, except as otherwise provided in this chapter, shall pay the public safety fee to the retailer as a separate added amount to the consideration in the transaction. The retailer shall collect the public safety fee as an agent for the state.

(c) The public safety fee shall be deposited in the state general fund.

(d) The department of state revenue shall adopt rules under IC 4-22-2 necessary for the collection of the public safety fee monies from retailers as described in subsections (b) and (c).

SECTION 13. IC 22-11-14-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2006]: Sec. 13. (a) The public safety fee is measured by the gross retail income received by a retail merchant in a retail unitary transaction of fireworks and is imposed at the following rates:

<table>
<thead>
<tr>
<th>PUBLIC SAFETY FEE</th>
<th>GROSS RETAIL INCOME FROM THE RETAIL UNITARY TRANSACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ 0</td>
<td>$ 0.10</td>
</tr>
<tr>
<td>$ 0.01</td>
<td>at least $ 0.10 but less than $ 0.30</td>
</tr>
<tr>
<td>$ 0.02</td>
<td>at least $ 0.30 but less than $ 0.50</td>
</tr>
<tr>
<td>$ 0.03</td>
<td>at least $ 0.50 but less than $ 0.70</td>
</tr>
<tr>
<td>$ 0.04</td>
<td>at least $ 0.70 but less than $ 0.90</td>
</tr>
<tr>
<td>$ 0.05</td>
<td>at least $ 0.90 but less than $ 1.10</td>
</tr>
</tbody>
</table>

On a retail unitary transaction in which the gross retail income received by the retail merchant is one dollar and ten cents ($1.10) or more, the public safety fee is five percent (5%) of that gross retail income.

(b) If the public safety fee computed under subsection (a) results in a fraction of one-half cent ($0.005) or more, the amount of the public safety fee shall be rounded to the next additional cent.

SECTION 14. IC 22-11-14-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2006]: Sec. 14. An individual who:

(1) is an individual retailer or is an employee, an officer, or a member of a corporate or partnership retailer; and

(2) has a duty to remit the public safety fee as described in section 12 of this chapter to the department of state revenue;

holds the public safety fees collected in trust for the state and is personally liable for the payment of the public safety fee money to the state.

SECTION 15. IC 22-11-14-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. The fire prevention and building safety commission and the department of state revenue shall adopt rules under IC 4-22-2 to carry out this chapter.

SECTION 16. IC 31-37-2-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. A child commits a delinquent act if, before becoming eighteen (18) years of age, the child violates IC 22-11-14-6(c) concerning minors and fireworks.

SECTION 17. IC 35-47-7-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) If:

(1) a practitioner (as defined in IC 25-1-9-2) initially treats a person for an injury and identifies the person's injury as resulting from fireworks or pyrotechnics, the practitioner;

(2) a hospital or an outpatient surgical center initially treats a person for an injury and the administrator of the hospital or outpatient surgical center identifies the person's injury as resulting from fireworks or pyrotechnics, the administrator or the administrator's designee;

shall report the case to the state health data center of the state department of health not more than five (5) business days after the time the person is treated. The report may be made in writing on a form prescribed by the state department of health.

(b) A person submitting a report under subsection (a) shall make a reasonable attempt to include the following information:

(1) The name, address, and age of the injured person.

(2) The date and time of the injury and location where the injury occurred.

(3) If the injured person was less than eighteen (18) years of age at the time of the injury, whether an adult was present when the injury occurred.

(4) Whether the injured person consumed an alcoholic beverage within three (3) hours before the occurrence of the injury.

(5) A description of the firework or pyrotechnic that caused the injury.

(6) The nature and extent of the injury.

(c) A report made under this section is confidential for purposes of IC 5-14-3-4(a)(1).

(d) The department of state health shall compile the data collected under this section and submit a report of the compiled data to the legislative council in an electronic format under IC 5-14-6 not later than December 31 of each year.

SECTION 18. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 22-11-14-5; IC 35-47-7-6.

SECTION 19. [EFFECTIVE UPON PASSAGE] The department of homeland security shall report to the budget committee not later than July 1, 2006, on the feasibility of creating a regional program to:

(1) train public safety service providers under IC 10-19-9-3; and...
The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 75–1; filed March 13, 2006, at 5:34 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 75 respectfully reports that said two committee have conferred and agreed as follows to wit:

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

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning veterans' affairs and motor vehicles and to make an appropriation.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 9-13-2-196.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 196.5. "Veteran", for purposes of IC 9-18-50, has the meaning set forth in IC 9-18-50-1.

SECTION 2. IC 9-18-15-1, AS AMENDED BY P.L.214-2005, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) A person who is the registered owner or lessee of a:

(1) passenger motor vehicle;
(2) motorcycle;
(3) recreational vehicle; or
(4) vehicle registered as a truck with a declared gross weight of not more than:
   (A) eleven thousand (11,000) pounds;
   (B) nine thousand (9,000) pounds; or
   (C) seven thousand (7,000) pounds;
registered with the bureau or who makes an application for an original registration or renewal registration of a vehicle may apply to the bureau for a personalized license plate to be affixed to the vehicle for which registration is sought instead of the regular license plate.
(b) A person who:
(1) is the registered owner or lessee of a vehicle described in subsection (a); and
(2) is eligible to receive a license plate for the vehicle under:
   (A) IC 9-18-17 (prisoner of war license plates);
   (B) IC 9-18-18 (disabled veteran license plates);
   (C) IC 9-18-19 (purple heart license plates);
   (D) IC 9-18-20 (Indiana National Guard license plates);
   (E) IC 9-18-21 (Indiana Guard Reserve license plates);
   (F) IC 9-18-22 (license plates for persons with disabilities);
   (G) IC 9-18-23 (amateur radio operator license plates);
   (H) IC 9-18-24 (civic event license plates);
   (I) IC 9-18-25 (special group recognition license plates);
   (J) IC 9-18-29 (environmental license plates);
   (K) IC 9-18-30 (kids first trust license plates);
   (L) IC 9-18-31 (education license plates);
   (M) IC 9-18-32.2 (drug free Indiana trust license plates);
   (N) IC 9-18-33 (Indiana FFA trust license plates);
   (O) IC 9-18-34 (Indiana firefighter license plates);
   (P) IC 9-18-35 (Indiana food bank trust license plates);
   (Q) IC 9-18-36 (Indiana girl scouts trust license plates);
   (R) IC 9-18-37 (Indiana boy scouts trust license plates);
   (S) IC 9-18-38 (Indiana retired armed forces member license plates);
   (T) IC 9-18-39 (Indiana antique car museum trust license plates);
   (U) IC 9-18-40 (D.A.R.E. Indiana trust license plates);
   (V) IC 9-18-41 (Indiana arts trust license plates);
   (W) IC 9-18-42 (Indiana health trust license plates);
   (X) IC 9-18-43 (Indiana mental health trust license plates);
   (Y) IC 9-18-44 (Indiana Native American Trust license plates);
   (Z) IC 9-18-45.8 (Pearl Harbor survivor license plates);
   (AA) IC 9-18-46.2 (Indiana state educational institution trust license plates);
   (BB) IC 9-18-47 (Lewis and Clark bicentennial license plates);
   (CC) IC 9-18-48 (Riley Children's Foundation license plates).
March 13, 2006

(DD) IC 9-18-49 (National Football League franchised professional football team license plates);
(EE) IC 9-18-50 (Hoosier veteran license plates); or
(FF) IC 9-18-51 (support our troops license plates);
may apply to the bureau for a personalized license plate to be affixed to the vehicle for which registration is sought instead of the regular special recognition license plate.

SECTION 3. IC 9-18-25-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. This chapter does not apply to the following:
(1) Antique motor vehicle license plates (IC 9-18-12).
(2) Recovery vehicle license plates (IC 9-18-13).
(3) Personalized license plates (IC 9-18-15).
(4) Prisoner of war license plates (IC 9-18-17).
(5) Disabled veteran license plates (IC 9-18-18).
(6) Purple Heart license plates (IC 9-18-19).
(7) Indiana National Guard license plates (IC 9-18-20).
(8) Person with a disability license plates (IC 9-18-22).
(9) Amateur radio operator license plates (IC 9-18-23).
(10) Pearl Harbor survivor license plates (IC 9-18-45.8).
(11) Hoosier veteran license plates (IC 9-18-50).
(12) Support our troops license plates (IC 9-18-51).

SECTION 4. IC 9-18-50 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 50. Hoosier Veteran License Plates
Sec. 1. As used in this chapter, "veteran" means an individual:
(1) who:
   (A) has served in:
      (i) the United States armed forces or their reserves;
      (ii) the Indiana Army National Guard; or
      (iii) the Indiana Air National Guard; and
   (B) received an honorable discharge from service; or
(2) who is serving in the United States armed forces or their reserves.

Sec. 2. The bureau shall design a Hoosier veteran license plate to be issued beginning January 1, 2007.

Sec. 3. A Hoosier veteran license plate must include the following:
(1) A basic design for the plate with consecutive numbers or letters, or both, to properly identify the vehicle.
(2) A background design, an emblem, or colors that designate the license plate as a Hoosier veteran license plate.
(3) An area on the plate for display of an emblem denoting the branch of service or conflict in which the veteran served.
(4) Any other information the bureau considers necessary.

Sec. 4. The bureau shall confer with members of armed forces retiree organizations concerning the design of the Hoosier veteran license plate and the emblems denoting the branch of service or conflict in which the veteran served.

Sec. 5. A Hoosier veteran license plate issued under this chapter may be displayed on the following:
(1) A passenger motor vehicle.
(2) A truck registered as a truck with a declared gross weight of not more than eleven thousand (11,000) pounds.
(3) A recreational vehicle.

Sec. 6. A veteran who is a resident of Indiana and is eligible to register a motor vehicle under this title may apply for and receive a Hoosier veteran license plate for one (1) or more motor vehicles upon doing the following:
(1) Completing an application for a Hoosier veteran license plate.
(2) Presenting:
   (A) a United States Uniformed Services Retiree Identification Card;
   (B) a DD 214 record;
   (C) United States military discharge papers; or
   (D) a current armed forces identification card;
   to the bureau.
(3) Paying the fee under section 7 of this chapter.

Sec. 7. The fee for a Hoosier veteran license plate is the appropriate fee under IC 9-29-5-38.5(a).

SECTION 5. IC 9-18-51 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 51. Support Our Troops License Plate
Sec. 1. The bureau of motor vehicles shall design and issue a support our troops license plate, beginning January 1, 2007.

Sec. 2. A support our troops license plate must include the following:
(1) A basic design for the plate, with consecutive numbers or letters, or both, to properly identify the vehicle.
(2) A background design, an emblem, or colors that designate the license plate as a support our troops license plate.
(3) Any other information the bureau considers necessary.

Sec. 3. A support our troops license plate issued under this chapter may be displayed on the following:
(1) A passenger motor vehicle.
(2) A truck registered as a truck with a declared gross weight of not more than eleven thousand (11,000) pounds.
(3) A recreational vehicle.

Sec. 4. A person who is eligible to register a vehicle under this title is eligible to receive a support our troops license plate under this chapter after December 31, 2006, upon doing the following:
(1) Completing an application for a support our troops license plate.
(2) Paying the fee described under section 5 of this chapter.

Sec. 5. The fee for a support our troops license plate is the appropriate fee under IC 9-29-5-38.5(b).

SECTION 6. IC 9-29-5-38.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 38.5. (a) A vehicle registered under IC 9-18-50 is subject to:
(1) an annual registration fee;
(2) an annual supplemental fee of fifteen dollars ($15); and
(3) any other fee or tax required of a person registering a vehicle under this title.

(b) A vehicle registered under IC 9-18-51 is subject to:
(1) an annual registration fee;
(2) an annual supplemental fee of twenty dollars ($20); and
(3) any other fee or tax required of a person registering a vehicle under this title.

(c) The bureau shall distribute the annual supplemental fees described in subsections (a)(2) and (b)(2) that are collected from each registration to the director of veterans' affairs for deposit in the military family relief fund established under IC 10-17-1-6.

SECTION 7. IC 10-17-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) The director of veterans' affairs:
(1) is the executive and administrative head of the department of veterans' affairs; and
(2) shall direct and supervise the administrative and technical activities of the department;
subject to the general supervision of the commission.

(b) The duties of the director include the following:
(1) To attend all meetings of the commission and to act as secretary and keep minutes of the commission's proceedings.
(2) To appoint, by and with the consent of the commission, under this chapter and notwithstanding IC 4-15-2, the employees of the department necessary to carry out this chapter and to fix the compensation of the employees. Employees of the department must be:
   (A) honorably discharged veterans who have had at least six (6) months service in the armed forces of the United States and who are citizens of the United States and Indiana; or
   (B) spouses, surviving spouses, parents, or children of an individual described in clause (A).

An employee must qualify for the job concerned.

(3) To carry out the program for veterans' affairs as directed by the governor and the commission.

(4) To carry on field direction, inspection, and coordination of county and city service officers as provided in this chapter.

(5) To prepare and conduct service officer training schools with the voluntary aid and assistance of the service staffs of the
major veterans' organizations.
(6) To maintain an information bulletin service to county and city service officers for the necessary dissemination of material pertaining to all phases of veterans' rehabilitation and service work.
(7) To perform the duties described in IC 10-17-11 for the Indiana state veterans' cemetery.
(8) To perform the duties described in IC 10-17-12 for the military family relief fund.
SECTION 8. IC 10-17-12 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 12. Military Family Relief Fund

Sec. 0.5. This chapter applies after December 31, 2006.
Sec. 1. As used in this chapter, "active duty" means full-time service in:
(1) a reserve component of the armed forces; or
(2) the national guard;
for a period that exceeds thirty (30) consecutive days in a calendar year.
Sec. 2. As used in this chapter, "armed forces" includes the reserve components of the following:
(1) The United States Army.
(2) The United States Navy.
(3) The United States Marine Corps.
(4) The United States Air Force.
(5) The United States Coast Guard.
Sec. 3. As used in this chapter, "commission" refers to the veterans' affairs commission established by IC 10-17-1-3.
Sec. 4. As used in this chapter, "department" refers to the Indiana department of veterans' affairs established by IC 10-17-1-2.
Sec. 5. As used in this chapter, "director" refers to the director of veterans' affairs.
Sec. 6. As used in this chapter, "fund" refers to the military family relief fund established by section 8 of this chapter.
Sec. 7. As used in this chapter, "national guard" means:
(1) the Indiana Army National Guard; or
(2) the Indiana Air National Guard.
Sec. 8. (a) The military family relief fund is established beginning January 1, 2007, to provide assistance with food, housing, utilities, medical services, basic transportation, and other essential family support expenses that have become difficult to afford for families of Indiana residents who are:
(1) members of:
   (A) a reserve component of the armed forces; or
   (B) the national guard; and
(2) called to active duty after September 11, 2001.
(b) The department shall expend the money in the fund exclusively to provide grants for assistance as described in subsection (a).
(c) The director shall administer the fund.
Sec. 9. (a) The fund consists of the following:
(1) Appropriations made by the general assembly.
(2) Donations to the fund.
(3) Interest as provided in subsection (b).
(4) Money transferred to the fund from other funds.
(5) Annual supplemental fees collected under IC 9-29-5.3-8.5.
(6) Money from any other source authorized or appropriated for the fund.
(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.
(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund or to any other fund.
(d) There is annually appropriated to the department for the purposes of this chapter all money in the fund not otherwise appropriated to the department for the purposes of this chapter.
Sec. 10. The commission may adopt rules under IC 4-22-2 for the provision of grants under this chapter. The rules adopted under this section must address the following:
(1) Uniform need determination procedures.
(2) Eligibility criteria.
(3) Application procedures.
(4) Selection procedures.
(5) Coordination with other assistance programs.
(6) Other areas in which the department determines that rules are necessary to ensure the uniform administration of the grant program under this chapter.
Sec. 11. The director or a member of the commission may make a request to the general assembly for an appropriation to the fund.
Sec. 12. The director shall establish the capability to receive donations to the fund from the public on the department's Internet site.

SECTION 9. [EFFECTIVE JULY 1, 2006] (a) Notwithstanding IC 10-17-12-10, as added by this act, the director of veterans' affairs shall carry out the duties imposed on:
(1) the director of veterans' affairs; or
(2) the Indiana department of veterans' affairs; under IC 10-17-12, as added by this act, under interim written guidelines approved by the veterans' affairs commission.
(b) This SECTION expires on the earlier of the following:
(1) The date rules are adopted under IC 10-17-12-10, as added by this act.

SECTION 10. [EFFECTIVE UPON PASSAGE] The director of veterans' affairs, after consultation with the veterans' affairs commission, shall report to the budget committee before August 1, 2006, on the topics described in IC 10-17-12-10, as added by this act.

SECTION 11. [EFFECTIVE UPON PASSAGE] (a) The provision of P.L.246-2005, SECTION 9, that limits the Indiana department of veterans' affairs from considering new applications from dependents of veterans with disabilities not greater than zero (0) percentage does not apply to applications after academic years beginning after June 30, 2006.
(b) Beginning July 1, 2006, the appropriation for state student assistance commission statutory fee remission made by P.L.246-2005, SECTION 9, may be allotted and used for statutory fee remission related to dependents of veterans with disabilities not greater than zero (0) percentage.
SEC. 12. [EFFECTIVE JULY 1, 2006] (a) Effective January 1, 2007, the bureau of motor vehicles shall terminate the issuance of the Hoosier veteran license plate issued as a special group recognition license plate under IC 9-18-25.
(b) Notwithstanding IC 9-18-50-6(2), as added by this act, a person who was issued a Hoosier veteran license plate issued as a special group recognition license plate under IC 9-18-25 in 2006 is not required to present:
(1) a United States Uniformed Services Retiree Identification Card;
(2) a DD 214 record; or
(3) United States military discharge papers;
to the bureau upon applying for a Hoosier veteran license plate under IC 9-18-50-6, as added by this act.
(c) This SECTION expires December 31, 2007.

SECTION 13. An emergency is declared for this act
(Reference is to ESB 75 as reprinted February 17, 2006.)

LONG STUTZMAN
CRAYCRAFT RESKE
Senate Conferees House Conferees
The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 253–1: filed March 13, 2006, at 5:36 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 253 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 4-33-4-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 19. The commission shall revoke the license of a licensee who operates a riverboat upon Patoka Lake if that licensee violates any of the following:

(A) may provide for a common use if the standard is needed to accommodate the interests of landowners having property rights abutting the lake or rights to access the lake; and
(B) shall exempt any class of activities from licensing, including temporary structures, if the commission finds that the class is unlikely to pose more than a minimal potential for harm to the public rights described in section 5 of this chapter.

SECTION 2. IC 14-25-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. Fees received by the department under the following statutes shall be deposited in the fund:

(A) IC 14-26-2-9.
(B) IC 14-26-6.
(C) IC 14-26-2-3.
(D) IC 14-26-5-4.
(E) IC 14-28-1-22.
(F) IC 14-29-3-2.
(G) IC 14-29-4-4.

SECTION 3. IC 14-26-2-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 23. (a) Unless a person obtains a permit from the department under this section and conducts the activities according to the terms of the permit, a person may not conduct the following activities:

(1) Excavate; (2) Place fill; or (C) Place, modify, or repair a temporary or permanent structure.

(2) Construct a wall whose lowest point would be:

(A) below the elevation of the shoreline or waterline; and

(B) within ten (10) feet landward of the shoreline or waterline, as measured perpendicularly from the shoreline or waterline; of a public freshwater lake.

(3) Change the water level, area, or depth of a public freshwater lake or the location of the shoreline or waterline.

(b) An application for a permit for an activity described in subsection (a) must be accompanied by the following:

(1) A nonrefundable fee of one hundred dollars ($100).
(2) A project plan that provides the department with sufficient information concerning the proposed excavation, fill, temporary structure, or permanent structure.
(3) A written acknowledgment from the landowner that any additional water area created under the project plan is part of the lake and is dedicated to the general public use with the public rights described in section 5 of this chapter.

(c) The department may issue a permit after investigating the merits of the application. In determining the merits of the application, the department may consider any factor, including cumulative effects of the proposed activity upon the following:

(1) The shoreline, waterline, or bed of the lake.
(2) The fish, wildlife, or botanical resources.
(3) The public rights described in section 5 of this chapter.
(4) The management of watercraft operations under IC 14-15.
(5) The interests of a landowner having property rights abutting the lake or rights to access the lake.

(d) A contractor or agent of the landowner who engages in an activity described in subsection (a)(1), (a)(2), or (a)(3) must comply with the terms of a permit issued under this section.

(e) The commission shall adopt rules in the manner provided in IC 14-24-29 under IC 4-22-2 to do the following:

(1) Assist in the administration of this chapter.
(2) Provide objective standards for licensing:

(A) the placement of a temporary or permanent structure or material; or

(B) the extraction of material;

over, along, or within a shoreline or waterline; issuing permits under this section, including standards for the configuration of piers, boat stations, platforms, and similar structures. The standards:

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

CONFERENCE COMMITTEE REPORT
ESB 359–1; filed March 13, 2006, at 5:37 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 359 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 4, delete lines 23 through 29, begin a new paragraph and insert:

"Sec. 5. (a) A solicitation for a public works contract must require each contractor that submits a bid for the work to submit with the bid a written plan for a program to test the contractor’s employees for drugs.

(b) A public works contract may not be awarded to a contractor whose bid does not include a written plan for an employee drug testing program that complies with this chapter.
(c) A contractor that is subject to a collective bargaining agreement shall be treated as having an employee drug testing program that complies with this chapter if the collective bargaining agreement establishes an employee drug testing program that includes the following:

(1) The program provides for the random testing of the contractor’s employees.
(2) The program contains a five (5) drug panel that tests for the substances identified in section 6(a)(3) of this chapter.
(3) The program imposes disciplinary measures on an employee who fails a drug test. The disciplinary measures must include at a minimum, all the following:

(A) The employee is subject to suspension or immediate termination.

(B) The employee is not eligible for reinstatement until the employee tests negative on a five (5) drug panel test certified by a medical review officer.

(C) The employee is subject to unscheduled sporadic
testing for at least one (1) year after reinstatement.  
(D) The employee successfully completes a rehabilitation program recommended by a substance abuse professional if the employee fails more than one (1) drug test.

A copy of the relevant part of the collective bargaining agreement constitutes a written plan under this section.

Page 4, line 42, delete "(92000 ng/ml)." and insert "(2000 ng/ml)."

Page 6, delete lines 13 through 22, begin a new paragraph and insert:
"SECTION 3. IC 4-13.6-3-3, AS AMENDED BY SEA 247-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) There is established a certification board. The following persons shall serve on the certification board:

(1) The chief engineer director of engineering of the department of natural resources.
(2) The director.
(3) The building law compliance officer of the department of homeland security.
(b) The board shall administer IC 4-13.6-4.".

(Reference is to ESB 359 as reprinted February 28, 2006.)

HERSHMAN MESSER
S. SMITH MAHERN
Senate Conferees House Conferees

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

MOTIONS TO CONCUR IN SENATE AMENDMENTS

HOUSE MOTION

Mr. Speaker: I move that the House concur in the Senate amendments to Engrossed House Bill 1220.

RESKE

Roll Call 425: yeas 70, nays 20. Motion prevailed.

ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS

Engrossed House Bill 1117–1

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 House Bill 1117–1.

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 106–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 427: yeas 98, nays 0. Report adopted.

Engrossed Senate Bill 355–1

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 355–1.

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 355–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 428: yeas 98, nays 0. Report adopted.

Engrossed House Bill 1016–1

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 1016–1.

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 1016–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Representative Murphy was excused from voting, pursuant to House Rule 46. Roll Call 429: yeas 92, nays 3. Report adopted.

Engrossed Senate Bill 202–1

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 7 hours, all so that the following conference committee report may
be eligible to be placed before the House for action: Engrossed Senate Bill 202–1.

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 7 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 202–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 430: yeas 98, nays 0. Report adopted.

Engrossed Senate Bill 359–1

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 359–1.

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 359–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Representative Reske was excused from voting, pursuant to House Rule 46. Roll Call 430: yeas 87, nays 6. Report adopted.

Engrossed Senate Bill 305–1

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 305–1.

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 305–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 432: yeas 95, nays 0. Report adopted.
(3) a caseworker;
(4) a juvenile probation officer; or
(5) a court;

as a result of exigent circumstances including an out-of-home placement under IC 31-34-2 or IC 31-34-4; or the sudden unavailability of the child's parent, guardian, or custodian that require immediate placement with a person other than the child's parent, guardian, or custodian.

(b) The term includes any out-of-home placement for temporary care and custody of a child at or after the time of initial removal or transfer of custody of the child from the child's parent, guardian, or custodian, as authorized under any of the following:

(1) IC 31-34-2.
(2) IC 31-34-2.5.
(3) IC 31-34-4.
(4) IC 31-34-5.
(5) IC 31-37-4.
(6) IC 31-37-5.
(7) IC 31-37-6.

(e) The term does not include any proposed or actual change in location of the child’s placement for continuing care and custody after the court has entered an order at the time of or following a detention hearing required under IC 31-34-5 or IC 31-37-6, unless a court or an agency responsible for the child’s care and supervision determines that an immediate change in placement is necessary to protect the health or safety of the child.

(d) The term does not include placement to an entity or in a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

SECTION 3. IC 10-13-3-27.5, AS AMENDED BY SEA 132-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 27.5. (a) If:

(1) exigent circumstances require the emergency placement of a child; and
(2) the department will be unable to obtain criminal history information from the Interstate Identification Index before the emergency placement is scheduled to occur;

upon request of the department of child services established by IC 31-25-1-1, a caseworker, or a juvenile probation officer, the department may conduct a national name based criminal history record check of each individual who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location. The department shall promptly transmit a copy of the report it receives from the Interstate Identification Index to the agency or person that submitted a request under this section.

(b) Not later than seventy-two (72) hours after the department of child services, the caseworker, or the juvenile probation officer receives the results of the national name based criminal history record check, the department of child services, the caseworker, or the juvenile probation officer shall provide the department with a complete set of fingerprints for each individual who is currently residing in the location designated as the out-of-home placement at the time the child will be placed in the location. The department shall:

(1) use fingerprint identification to positively identify each individual who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location; or
(2) submit the fingerprints to the Federal Bureau of Investigation not later than fifteen (15) calendar days after the date on which the national name based criminal history record check was conducted.

The child shall be removed from the location designated as the out-of-home placement if an individual who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location fails to provide a complete set of fingerprints to the department of child services, the caseworker, or the juvenile probation officer.

(c) The department and the person or agency that provided fingerprints shall comply with all requirements of 42 U.S.C. 5119a and any other applicable federal law or regulation regarding:

(1) notification to the subject of the check; and
(2) the use of the results obtained based on the check of the person's fingerprints.

(d) If an out-of-home placement is denied as the result of a national name based criminal history record check, an individual who is currently residing in the location designated as the out-of-home placement at the time the child will reside in the location may contest the denial by submitting to the department of child services, the caseworker, or the juvenile probation officer:

(1) a complete set of the individual's fingerprints; and
(2) written authorization permitting the department of child services, the caseworker, or the juvenile probation officer to forward the fingerprints to the department for submission to the Federal Bureau of Investigation;

not later than five (5) days after the out-of-home placement is denied.

(e) The:

(1) department; and
(2) Federal Bureau of Investigation;

may charge a reasonable fee for processing a national name based criminal history record check. The department shall adopt rules under IC 4-22-2 to establish a reasonable fee for processing a national name based criminal history record check and for collecting fees owed under this subsection.

(f) The:

(1) department of child services, for an out-of-home placement arranged by a caseworker or the department of child services; or
(2) juvenile court, for an out-of-home placement ordered by the juvenile court;

shall pay the fee described in subsection (e), arrange for fingerprinting, and pay the costs of fingerprinting, if any.

SECTION 4. IC 12-17.2-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) The following constitute sufficient grounds for a denial of a license application:

(1) A determination by the division department of child services established by IC 31-25-1-1 of child abuse or neglect (as defined in IC 31-9-2-14) by:

(A) the applicant;

(B) an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant; or

(C) a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant.

(2) A criminal conviction of the applicant, or of an employee of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant, or a volunteer of the applicant who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the applicant, of any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

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

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

(3) A determination by the division that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the division that the applicant made false statements in the records required by the division.

(5) A determination by the division that the applicant previously operated a:

(A) child care center without a license under this chapter; or

(B) child care home without a license under IC 12-17.2-5.

(b) Notwithstanding subsection (a)(2), if:

(1) a license application is denied due to a criminal conviction of an employee or a volunteer of the applicant; and

(2) the division determines that the employee or volunteer has been dismissed by the applicant;

the criminal conviction of the former employee or former volunteer does not require denial of a license application.

SECTION 5. IC 12-17.2-4-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 32. (a) The following constitute sufficient grounds for revocation of a license:
(1) A determination by the division of child services of child abuse or neglect (as defined in IC 31-9-2-14) by:

(A) the licensee;

(B) an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee; or

(C) a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.

(2) A criminal conviction of the licensee, or an employee of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee, or a volunteer of the licensee who has direct contact, on a regular and continuous basis, with children who are under the direct supervision of the licensee.

(b) Notwithstanding subsection (a)(2), if:

(1) a license application is denied due to a criminal conviction of:

(A) an employee or a volunteer of the applicant; or

(B) a member of the applicant's household; and

(2) the division determines that the:

(A) employee or volunteer has been dismissed by the applicant; or

(B) member of the applicant's household is no longer a member of the applicant's household.

(c) A misdemeanor for operating a child care center without a license under IC 12-17.2-4-35.

(D) A misdemeanor for operating a child care home without a license under section 35 of this chapter.

(3) A determination by the division that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the division that the applicant made false statements in the records required by the division.

(5) A determination by the division that the applicant previously operated a:

(A) child care center without a license under IC 12-17.2-4; or

(B) child care home without a license under this chapter.

(b) Notwithstanding subsection (a)(2), if:

(1) a license application is denied due to a criminal conviction of:

(A) an employee or a volunteer of the applicant; or

(B) a member of the applicant's household; and

(2) the division determines that the:

(A) employee or volunteer has been dismissed by the applicant; or

(B) member of the applicant's household is no longer a member of the applicant's household.

(c) A misdemeanor for operating a child care center without a license under IC 12-17.2-4-35.

(D) A misdemeanor for operating a child care home without a license under section 35 of this chapter.

(3) A determination by the division that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the division that the applicant made false statements in the records required by the division.

(5) A determination by the division that the applicant previously operated a:

(A) child care center without a license under IC 12-17.2-4; or

(B) child care home without a license under this chapter.

(b) Notwithstanding subsection (a)(2), if:

(1) a license application is denied due to a criminal conviction of:

(A) an employee or a volunteer of the applicant; or

(B) a member of the applicant's household; and

(2) the division determines that the:

(A) employee or volunteer has been dismissed by the applicant; or

(B) member of the applicant's household is no longer a member of the applicant's household.

(c) A misdemeanor for operating a child care center without a license under IC 12-17.2-4-35.

(D) A misdemeanor for operating a child care home without a license under section 35 of this chapter.
CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 37. (a) The department of child services shall conduct an investigation of a claim of abuse or neglect at a child care home.

(b) After an investigation under subsection (a), the department of child services shall make a determination of whether or not abuse or neglect occurred at the child care home.

c) If the department of child services makes a determination under IC 31-33-8-12 that abuse or neglect at the child care home is substantiated, the department shall send a copy of its report to the appropriate licensing office at the division.

SECTION 10. IC 16-37-2-2.1, AS AMENDED BY SEA 132-2006, SECTION 140, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.1. (a) A paternity affidavit may be executed as provided in this section through:

1) a hospital; or
2) a local health department.

(b) Immediately before or after the birth of a child who is born out of wedlock, a person who attends or plans to attend the birth, including personnel of all public or private birthing hospitals, shall:

1) provide an opportunity for:
   (A) the child's mother; and
   (B) a person who reasonably appears to be the child's biological father;
2) verbally explain to the individuals listed in subdivision (1) the legal effects of an executed paternity affidavit as described in subsection (g);
3) execute an affidavit acknowledging paternity of the child; and
4) file an action in a court with jurisdiction over the paternity affidavit upon a showing of facts sufficient to demonstrate an order entered under subsection (b) or (i) excludes the person who executed the paternity affidavit as the child's biological father.

(c) A paternity affidavit must be completed not more than seventy-two (72) hours after the child's birth. A paternity affidavit is valid only if the affidavit is executed as follows:

1) If executed through a hospital, the paternity affidavit must be completed not more than seventy-two (72) hours after the child's birth.
2) If executed through a local health department, the paternity affidavit must be completed before the child has reached the age of emancipation.

(d) A paternity affidavit is not valid if it is executed after the mother of the child has executed a consent to adoption of the child and a petition to adopt the child has been filed.

(e) A paternity affidavit executed under this section must contain or be attached to all of the following:

1) The mother's sworn statement asserting that a person described in subsection (2) is the child's biological father.
2) A statement by a person identified as the father under subdivision (1) attesting to a belief that he is the child's biological father.
3) Written information furnished by the child support bureau of the department of child services:
   (A) explaining the effect of an executed paternity affidavit as described in subsection (g); and
   (B) describing the availability of child support enforcement services.
4) The Social Security number of each parent.

(f) A woman who knowingly or intentionally falsely names a man as the child's biological father under this section commits a Class A misdemeanor.

(g) A paternity affidavit executed under this section:

1) establishes paternity; and
2) gives rise to parental rights and responsibilities of the person described in subsection (e)(2), including:
   (A) the right of the child's mother or the Title IV-D agency to obtain a child support order against the person, which may include an order requiring the provision of health insurance coverage; and
   (B) reasonable parenting time rights unless another determination is made by a court in a proceeding under IC 31-14-14; and
3) may be filed with a court by the department of child services.

However, if a paternity affidavit is executed under this section, the child's mother has sole legal custody of the child unless another custody determination is made by a court in a proceeding under IC 31-14.

(h) Notwithstanding any other law,
1) any person listed in IC 31-14-4 or IC 31-14-3; or
2) a man who is a party to a paternity affidavit executed under this section.

may, within sixty (60) days of the date that a paternity affidavit is executed under this section, file an action in a court with jurisdiction over or paternity to request an order for a genetic test.

(i) If a paternity affidavit that is properly executed under this section may not be rescinded more than sixty (60) days after the paternity affidavit is executed unless a court:

1) has determined that fraud, duress, or material mistake of fact existed in the execution of the paternity affidavit; and
2) at the request of a man described in subsection (b), has ordered a genetic test, and the test indicates that the man is excluded as the father of the child.

(j) Unless good cause is shown, a court shall not suspend the legal responsibilities under subsection (b) unless a court

appoints a guardian ad litem to assist the court in determining the best interests of the child.

(k) The court shall order a genetic test, and the test indicates that the man is excluded as the father of the child.

(l) If a paternity affidavit is not executed under subsection (b), the hospital where the birth occurs or a person in attendance at the birth shall inform the child's mother of services available for establishing paternity.

(m) Except as provided in this section, if a man has executed a paternity affidavit in accordance with this section, the executed paternity affidavit conclusively establishes the man as the legal father of a child without any further proceedings by a court.

SECTION 11. IC 31-9-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. "Caseworker", for purposes of the juvenile law, means a child welfare worker of the county office of family and children: an employee of the department of child services who is classified as a family case manager.

SECTION 12. IC 31-9-2-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) "Custodian", for purposes of the juvenile law, means a person with whom a child resides.

(b) "Custodian", for purposes of IC 31-34-1-9 through IC 31-34-19, IC 31-34-1, includes any person responsible for the child's welfare who is employed by a public or private residential school or foster care facility who is:

1) a license applicant or licensee of:
   (A) a foster home or residential child care facility that is required to be licensed or is licensed under IC 31-27; or
   (B) a child care center that is required to be licensed or is licensed under IC 12-17-2-4; or
2) a child care home that is required to be licensed or is licensed under IC 12-17-2-5; or
3) a person who is responsible for care, supervision, or welfare of children while providing services as an employee or volunteer at:
   (A) a home, center, or facility described in subdivision (1); or
   (B) a school, as defined in IC 31-9-2-113.5.

SECTION 13. IC 31-9-2-113.5, AS AMENDED BY P.L.1-2005, SECTION 200, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 113.5. "School", for purposes of section 31 of this chapter and IC 31-39-2-13.8, means a:

1) public school (including a charter school as defined in IC 20-24-1-4); or
2) nonpublic school (as defined in IC 20-18-2-12); that must comply with the education records privacy provisions of the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g) to be eligible to receive designated federal education funding.

SECTION 14. IC 31-9-2-123 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 123. "Substantiated", for purposes of IC 31-23 IC 31-34-8-4; and IC 31-27-9-5, when used
in reference to a child abuse or neglect report made under IC 31-33, means a determination regarding the status of the report; and

(3) the county office of family and children whenever a subsidy is requested in a petition for adoption sponsored by a licensed child placing agency.

SECTION 18. IC 31-25-3-1, AS ADDED BY SEA 132-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: (a) The child support bureau is established within the department. The bureau is charged with the administration of Title IV-D of the federal Social Security Act.

(b) The state's plan for the administration of Title IV-D must comply with all provisions of state law and with the federal statutes and regulations governing the program.

(c) The state central collection unit is established within the child support bureau. The unit shall collect all noncash child support payments and process child support paid through income withholding.

SECTION 19. IC 31-25-4-13, AS ADDED BY SEA 132-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: (a) The bureau shall make the agreements necessary for the effective administration of the plan with local governmental officials within Indiana. The bureau shall contract with:

(1) a prosecuting attorney;

(2) a private attorney if the bureau determines that a reasonable contract cannot be entered into with a prosecuting attorney and the determination is approved by at least two-thirds (2/3) of the Indiana child custody and support advisory committee established by IC 33-24-11-1; or

(3) a collection agency licensed under IC 25-11 to collect arrearages on child support orders under which collections have not been made on arrearages for at least two (2) years; in each judicial circuit to undertake activities required to be performed under Title IV-D of the federal Social Security Act (42 U.S.C. 651), including establishment of paternity, establishment, enforcement, and modification of child support orders, activities under the Uniform Reciprocal Enforcement of Support Act (IC 31-2-1 before its repeal) or the Uniform Interstate Family Support Act (IC 31-18, or IC 31-1.5 before its repeal), and, if the contract is with a prosecuting attorney, prosecutions of welfare fraud.

(b) The hiring of an attorney by an agreement or a contract made under this section is not subject to the approval of the attorney general under IC 4-6-5-3. An agreement or a contract made under this section is not subject to IC 4-13-2-14.3 or IC 5-22.

(c) Subject to section 14 of this chapter, a prosecuting attorney with whom the bureau contracts under subsection (a):

(1) may contract with a collection agency licensed under IC 25-11 to provide child support enforcement services; and

(2) shall contract with a collection agency licensed under IC 25-11 to collect arrearages on child support orders under which collections have not been made on arrearages for at least two (2) years.

(d) A prosecuting attorney or private attorney entering into an agreement or a contract with the bureau under this section enters into an attorney-client relationship with the state to represent the interests of the state in the effective administration of the plan and not the interests of any other person. An attorney-client relationship is not created with any other person by reason of an agreement or contract with the bureau.

(e) At the time an application for child support services is made, the applicant must be informed that:

(1) an attorney who provides services for the bureau is the attorney for the state and is not providing legal representation to the applicant; and

(2) communications made by the applicant to the attorney and the advice given by the attorney to the applicant are not confidential communications protected by the privilege provided under IC 34-46-3-1.

(f) A prosecuting attorney or private attorney who contracts or agrees under this section to undertake activities required to be performed under Title IV-D is not required to mediate, resolve, or litigate a dispute between the parties relating to the amount of parenting time or parenting time credit.

(g) This section expires December 31, 2006.

SECTION 20. IC 31-25-4-13.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13.1. (a) This section applies after December 31, 2006.

(b) The bureau shall make the agreements necessary for the effective administration of the plan with local governmental officials within Indiana. The bureau shall contract with:

(1) a prosecuting attorney;

(2) a private attorney or private entity if the bureau determines that a reasonable contract cannot be entered into with a prosecuting attorney and the determination is approved by at least two-thirds (2/3) of the Indiana child custody and support advisory committee (established by IC 33-24-11-1); or

(3) a collection agency licensed under IC 25-11 to collect
arrearages on child support orders under which collections have not been made on arrearages for at least two (2) years; in each judicial circuit to undertake activities required to be performed under Title IV-D of the federal Social Security Act (42 U.S.C. 651), including establishment of paternity, establishment, enforcement, and modification of child support orders, activities under the Uniform Reciprocal Enforcement of Support Act (IC 31-2-1, before its repeal) or the Uniform Interstate Family Support Act (IC 31-18, or IC 31-1.5 before its repeal), and if the contract is with a prosecuting attorney, prosecutions of welfare fraud.

(c) The hiring of a private attorney or private entity by an agreement or a contract made under this section is not subject to the approval of the attorney general under IC 4-6-5-3. An agreement or a contract made under this section is not subject to IC 4-13-2-14.3 or IC 5-22.

(d) Subject to section 14.1 of this chapter, a prosecuting attorney with which the bureau contracts under subsection (b):
(1) may contract with a collection agency licensed under IC 25-11 to provide child support enforcement services; and
(2) shall contract with a collection agency licensed under IC 25-11 to collect arrearages on child support orders under which collections have not been made on arrearages for at least two (2) years.

(e) A prosecuting attorney or private attorney entering into an agreement or a contract with the bureau under this section enters into an attorney-client relationship with the state to represent the interests of the state in the effective administration of the plan and not the interests of any other person. An attorney-client relationship is not created with any other person by reason of an agreement or contract with the bureau.

(f) At the time that an application for child support services is made, the applicant must be informed that:
(1) an attorney who provides services for the child support bureau is the attorney for the state and is not providing legal representation to the applicant; and
(2) communications made by the applicant to the attorney and the advice given by the attorney to the applicant are not confidential communications protected by the privilege provided under IC 34-46-3-1.

(g) A prosecuting attorney or private attorney who contracts or agrees under this section to undertake activities required to be performed under Title IV-D is not required to mediate, resolve, or litigate a dispute between the parties relating to the amount of parenting time or parenting time credit.

(h) An agreement made under subsection (b) must contain requirements stipulating service levels a prosecuting attorney or private entity is expected to meet. The bureau shall disburse incentive money based on whether a prosecuting attorney or private entity meets service levels stipulated in an agreement made under subsection (b).

SECTION 21. IC 31-25-4-14, AS ADDED BY SEA 132-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) The bureau shall establish a program to allow a prosecuting attorney with which the bureau has contracted under section 18 of this chapter to contract with a collection agency licensed under IC 25-11 to provide child support enforcement services.

(b) The bureau shall:
(1) establish a list of approved collection agencies with which a prosecuting attorney may contract under this section;
(2) establish requirements for participation in the program established under this section to assure:
(A) effective administration of the plan; and
(B) compliance with all federal and state statutes, regulations, and rules;
(3) update and review the list described in subdivision (1) and forward a copy of the updated list to each prosecuting attorney annually; and
(4) preapprove or approve all contracts between a collection agency and a prosecuting attorney.

(c) A contract between a prosecuting attorney and a collection agency under this section must include the following provisions:

(1) A provision that records of a contractor operated child support enforcement system are subject to inspection and copying to the same extent the records would be subject to inspection and copying if the contractor were a public agency under IC 5-14-3.

(2) A provision that records that are provided by a contractor to the prosecuting attorney that relate to compliance by the contractor with the terms of the contract are subject to inspection and copying in accordance with IC 5-14-3.

(d) Not later than July 1, 2006, the bureau shall provide the legislative council with a report:
(1) evaluating the effectiveness of the program established under this section; and
(2) evaluating the impact of arrearage reductions for child support orders under which collection agencies have collected under IC 12-17-2-10(c), IC 31-25-4-13.

(e) The bureau is not liable for any costs related to a contract entered into under this section that are disallowed for reimbursement by the federal government under the Title IV-D program of the federal Social Security Act.

(f) The bureau shall treat costs incurred by a prosecuting attorney under this section as administrative costs of the prosecuting attorney.

(g) Contracts between a collection agency licensed under IC 25-11 and the bureau or a prosecuting attorney:
(1) must:
   (A) be in writing;
   (B) include:
      (i) all fees, charges, and costs, including administrative and application fees; and
      (ii) the right of the bureau or the prosecuting attorney to cancel the contract at any time;
   (C) require the collection agency, upon the request of the bureau or the prosecuting attorney, to provide the:
      (i) source of each payment received for arrearage on a child support order;
      (ii) form of each payment received for arrearage on a child support order;
      (iii) amount and percentage that is deducted as a fee or a charge from each payment of arrearage on a child support order; and
      (iv) amount of arrearage owed under a child support order;
   (D) be (1) year renewable contracts; and
(2) may be negotiable contingency contracts in which a collection agency may not collect a fee that exceeds fifteen percent (15%) of the arrearages collected per case.

(h) A collection agency that contracts with the bureau or a prosecuting attorney under this section may, in addition to the collection of arrearages on a child support order, assess and collect from an obligor all fees, charges, costs, and other expenses as provided under the terms of the contract described in subsection (g).

(i) This section expires December 31, 2006.

SECTION 22. IC 31-25-4-14.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14.1. (a) This section applies after December 31, 2006.

(b) The bureau shall establish a program to allow a prosecuting attorney with which the bureau has contracted under section 13.1 of this chapter to contract with a collection agency licensed under IC 25-11 to provide child support enforcement services.

(c) The bureau shall:
(1) establish a list of approved collection agencies with which a prosecuting attorney may contract under this section;
(2) establish requirements for participation in the program established under this section to assure:
   (A) effective administration of the plan; and
   (B) compliance with all federal and state statutes, regulations, and rules;
(3) update and review the list described in subdivision (1) and forward a copy of the updated list to each prosecuting attorney annually; and
(4) preapprove or approve all contracts between a collection agency and a prosecuting attorney.
The Title IV-D agency shall provide incentive payments to counties for collection of support money that have been assigned to the state and paid under the terms of a court order for support enforcement system to be subject to inspection and copying and paying the salary of an elected official. The amounts received as incentive payments must be used to supplement, rather than take the place of, other funds used for Title IV-D program activities.

**SECTION 24.** IC 31-25-4-24, AS ADDED BY SEA 132-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: (a) Each circuit court clerk shall do the following:

1. Before January 1, 2007, receive the support money assigned to the state and paid under the terms of a court order in the clerk's jurisdiction and pay the money to the Title IV-D agency within the time limits established by P.L.93-647, as amended, and any related regulations that are promulgated.
2. Maintain all records concerning the payment or nonpayment of support money that have been assigned to the state and transmit the records to the Title IV-D agency upon request.
3. Contract with the Title IV-D agency for the performance and the remuneration for the performance of duties prescribed in this section.

**b) Beginning January 1, 2007, for purposes of subsection (a)(1), each circuit court clerk may accept only support money that is paid in cash.**

**SECTION 25.** IC 31-25-4-25, AS ADDED BY SEA 132-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: The amounts appropriated for duties performed by prosecuting attorneys, circuit court clerks, or other agents under this chapter shall be distributed directly from the department of child services.

**SECTION 26.** IC 31-27-2-1, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. The department shall perform the following duties:

1. Administer the licensing and monitoring of child caring institutions, foster family homes, group homes, and child placing agencies in accordance with this article.
2. Ensure that a criminal history background check of an applicant is completed before issuing a license.
3. Provide for the issuance, denial, suspension, and revocation of licenses.
4. Cooperate with governing bodies of child caring institutions, foster family homes, group homes, and child placing agencies and their staffs to improve standards of child care.
5. Prepare at least biannually a directory of licensees, except for foster family homes, with a description of the program capacity and type of children served that will be distributed to the legislature, licensees, and other interested parties as a public document.
6. Deposit all license application fees collected under section 2 of this chapter in the department of child services child care fund established by IC 31-25-1-16.

**SECTION 27.** IC 31-27-3-13, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) A license for a child caring institution expires four (4) years after the date of issuance, unless the license is revoked, modified to a probationary or suspended status, or voluntarily returned.

(b) A license issued under this chapter:

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

(c) When a licensee submits a timely application for renewal, the current license remains in effect until the department issues a license or denies the application.

(d) A current license must be publicly displayed.

**SECTION 28.** IC 31-27-3-14, AS ADDED BY SEA 132-2006,
SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) The department may grant a place a licensee on probationary license to a licensee who status if the licensee is temporarily unable to comply with a rule and if:

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

(b) A probationary license status period is valid for not more than six (6) months. However, the department may extend a probationary license status period for one (1) additional period of six (6) months.

(c) A license is invalidated when a probationary license is issued.

(d) If a licensee submits a timely application for renewal, the department shall:

(1) reactivate the original license to the end of the original term of the license; issue a new license; or
(2) extend the probationary status period as permitted under subsection (b); or
(3) revoke the license.

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

(f) The department may extend the probationary status period if:

(1) the noncompliance does not present an immediate threat to the health and well-being of the children;
(2) the licensee files a plan with the department, state department of health, or state fire marshal approves the plan.

The department shall notify in writing each person responsible for each child in care, to ensure that the children are removed.

(b) After complying with the procedural provisions in sections 19 through 22 of this chapter, the department may impose any of the following sanctions:

(1) Reactivate the original license to the end of the original term of the license; issue a new license; or
(2) extend the probationary status period if;

(1) the noncompliance does not present an immediate threat to the health and well-being of the children;
(2) the licensee files a plan with the department, state department of health, or state fire marshal approves the plan.

(b) A probationary license status period is valid for not more than six (6) months. However, the department may extend a probationary license status period for one (1) additional period of six (6) months.

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

(d) At the expiration of a probationary license status period, the department shall:

(1) reactivate the original license to the end of the original term of the license; issue a new license; or
(2) extend the probationary status period as permitted under subsection (b); or
(3) revoke the license.

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

SECTION 33. IC 31-27-4-30, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 30. (a) After the license of a foster family home is revoked, or suspended; the department shall notify in writing each person responsible for each child in care, to ensure that the children are removed.

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

SECTION 34. IC 31-27-4-33, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 33. (a) A licensee shall operate a foster family home in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the department finds that the licensee has violated this article or a rule adopted under this article.

(b) After complying with the procedural provisions in sections 22 through 25 of this chapter, the department may impose the following sanctions:

(1) Reactivate the original license to the end of the original term of the license; issue a new license; or
(2) extend the probationary status period for not more than six (6) months.

(2) Revokes the license of the licensee.

However, the department shall permanently revoke the license of a licensee who has been convicted of any of the felonies described in section 13(a)(1) through 13(a)(19) of this chapter. The department may permanently revoke the license of a person who has been convicted of a felony that is not described in section 13(a)(1) through 13(a)(19) of this chapter.

SECTION 35. IC 31-27-5-14, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) A license for a group home expires four (4) years after the date of issuance, unless the license is revoked, modified to a probationary or suspended status, or voluntarily returned.

(b) A license issued under this chapter:

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

(c) A foster family home shall have the foster family home's license available for inspection.

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

 SECTION 32. IC 31-27-4-17, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 17. (a) The department may grant a place a licensee on probationary license to a licensee who status if the licensee is temporarily unable to comply with a rule and if:

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

(b) A probationary license status period is valid for not more than six (6) months. However, the department may extend a probationary license status period for one (1) additional period of six (6) months.
(c) A licensee's existing license is invalidated when a probationary license is issued to the licensee:

(1) (c) At the expiration of a probationary license; status period, the department shall: 

(1) **restate** the original license to the end of the original license's term issue a new of the license;

(2) extend the probationary status period as permitted in subsection (b); or

(3) revoke the license.

(2) Upon receipt of a probationary license, the licensee shall return to the department the previously issued license:

SECTION 37. IC 31-27-5-5, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 27. (a) After the license of a group home is revoked, or suspended, the department shall notify in writing each person responsible for each child in care to ensure that the children are removed from the group home.

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

SECTION 38. IC 31-27-5-32, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 32. (a) A licensee shall operate a group home in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the department finds that the licensee has violated this article or a rule adopted under this article.

(b) After complying with the procedural provisions in sections 19 through 22 of this chapter, the department may impose any of the following sanctions revoke the license when the department finds that a licensee has committed a violation under subsection (a).

(1) **Suspend the license of the licensee for not more than six (6) months:**

(2) **Revoke the license of the licensee:**

SECTION 39. IC 31-27-6-10, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 10. (a) A license for a child placing agency expires four (4) years after the date of issuance, unless the license is revoked, modified to a probationary or suspended status, or voluntarily returned.

(b) A license issued under this chapter:

(1) is not transferable;

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

(3) remains the property of the department.

(c) A child placing agency shall have the child placing agency's license available for inspection.

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

SECTION 40. IC 31-27-6-11, AS ADDED BY SEA 132-2006, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 11. (a) The department may grant a place a license on probationary license to a licensee who status if the licensee is temporarily unable to comply with a rule and if:

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

(2) the licensee files a plan with the department to correct the areas of noncompliance within the probationary period; and

(3) the department approves the plan.

(b) A probationary **license status period** is valid for not more than six (6) months. **However**, the department may extend a probationary license status period for one (1) additional period of six (6) months.

(3) A licensee's existing license is invalidated when a probationary license is issued to the licensee:

(1) (c) At the expiration of a probationary license; status period, the department shall: 

(1) **restate** the original license to the end of the original license's term issue a new of the license;

(2) extend the probationary status period as permitted in subsection (b); or

(3) revoke the original license.
(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.

(11) An appropriate state or local official responsible for child protection services or legislation carrying out the official's official functions.

(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.

(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.

(14) A person about whom a report has been made, with protection for the identity of:
   (A) any person reporting known or suspected child abuse or neglect; and
   (B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

(15) An employee of the department, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 31-26-5, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:
   (A) child at imminent risk of placement;
   (B) child in need of services; or
   (C) delinquent child.

The results of a criminal history check conducted under this subsection must be disclosed to a court determining the placement of a child described in clauses (A) through (C).

(16) A local child fatality review team established under IC 31-33-24-6.

(17) The statewide child fatality review committee established by IC 31-33-25-6.

(18) The department.

(19) The division of family resources, if the investigation report:
   (A) is classified as substantiated; and
   (B) concerns:
      (i) an applicant for a license to operate;
      (ii) a person licensed to operate;
      (iii) an employee of; or
      (iv) a volunteer providing services at;
   a child care center licensed under IC 12-17.2-4 or a child care home licensed under IC 12-17.2-5.

SECTION 44. IC 31-33-20-4, AS AMENDED BY P.L.234-2005, SECTION 165, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) Subject to the accessibility to files provided in subsection (b), at least ten (10) levels of security for confidentiality in the system must be maintained.
   (b) The system must have a comprehensive system of limited access to information as follows:
      (1) The system must be accessed only by the entry of an operator identification number and a person's secret password.
      (2) Child welfare caseworkers and investigators must be allowed to access only:
         (A) cases that are assigned to the caseworker; or investigator; and
         (B) other cases or investigations that involve:
             (i) a family member of a child; or
             (ii) a child;
             who is the subject of a case described in clause (A).
      (3) Child welfare supervisors may access only the following:
         (A) Cases assigned to the supervisor
         (B) Cases assigned to a caseworker or an investigator who reports to the supervisor.
      (C) Other cases or investigations that involve:
         (i) a family member of a child; or
         (ii) a child;
         who is the subject of a case described in clause (A) or (B).
   (D) Cases that are unassigned.

(4) To preserve confidentiality in the workplace, case child welfare managers, as designated by the department, may access any case, except restricted cases involving a state employee or the immediate family member of a state employee who has access to the system. Access to restricted information under this subdivision may be obtained only if an additional level of security is implemented.

(5) Access to records of authorized users, including passwords, is restricted to:
   (A) users designated by the department as an administrator; and
   (B) the administrator's level of administration as determined by the department.

(6) Ancillary programs that may be designed for the system may not be executed in a manner that would circumvent the system's log on security measures.

(7) Certain system functions must be accessible only to system operators with specified levels of authorization as determined by the department.

(8) Files containing passwords must be encrypted.

(9) There must be two (2) additional levels of security for confidentiality as determined by the department.

SECTION 45. IC 31-34-5-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3.5. If the juvenile court releases a child to the child's parent, guardian, or custodian under section 3 of this chapter, the court may impose conditions on the child or the child's parent, guardian, or custodian to ensure the safety of the child's physical or mental health.

SECTION 46. IC 31-34-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Except as provided in subsection (b), unless the allegations of a petition have been admitted, the juvenile court shall hold complete a factfinding hearing not more than sixty (60) days after a petition alleging that a child is a child in need of services is filed in accordance with IC 31-34-9.

(b) The juvenile court may extend the time to complete a factfinding hearing, as described in subsection (a), for an additional sixty (60) days if all parties in the action consent to the additional time.

SECTION 47. IC 31-34-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) Except as provided in subsection (b), at the close of all the evidence and before judgment is entered, the court may continue the case for not more than twelve (12) months.
   (b) If the:
      (1) child; or the
      (2) child's parent, guardian, or custodian; or
      (3) department;
   requests that judgment be entered, the judgment shall be entered not later than thirty (30) days after the request is made.
   (c) If the child is in a juvenile detention facility, the child shall be released not later than forty-eight (48) hours, excluding Saturdays, Sundays, and legal holidays, pending the entry of judgment. A child released from a juvenile detention facility pending the entry of judgment may be detained in a shelter care facility.

SECTION 48. IC 31-34-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. The juvenile court shall hold complete a dispositional hearing not more than thirty (30) days after the date the court finds that a child is a child in need of services to consider the following:
   (1) Alternatives for the care, treatment, rehabilitation, or placement of the child.
   (2) The necessity, nature, and extent of the participation by a parent, a guardian, or a custodian in the program of care, treatment, or rehabilitation for the child.
   (3) The financial responsibility of the parent or guardian of the estate for services provided for the parent or guardian or the child.

SECTION 49. IC 31-34-19-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) The juvenile court shall accompany the court's dispositional decree with written findings and conclusions upon the record concerning the following:
(1) The needs of the child for care, treatment, rehabilitation, or placement.
(2) The need for participation by the parent, guardian, or custodian in the plan of care for the child.
(3) Efforts made, if the child is a child in need of services, to:
   (A) prevent the child's removal from; or
   (B) reunite the child with;
   the child's parent, guardian, or custodian in accordance with federal law.
(4) Family services that were offered and provided to:
   (A) a child in need of services; or
   (B) the child's parent, guardian, or custodian; in accordance with federal law.
(5) The court's reasons for the disposition.

(b) The juvenile court may incorporate a finding or conclusion from a predispositional report as a written finding or conclusion upon the record in the court's dispositional decree.

SECTION 50. IC 31-34-20-1, AS AMENDED BY SEA 132-2006, SECTION 311, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. Subject to section 1.5 of this chapter, if a child is a child in need of services, the juvenile court may enter one (1) or more of the following dispositional decrees:
(1) Order supervision of the child by the probation department or the county office or the department.
(2) Order the child to receive outpatient treatment:
   (A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or
   (B) from an individual practitioner.
(3) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.
(4) Award wardship to a person or shelter care facility. Wardship under this subdivision does not include the right to consent to the child's adoption.
(5) Partially or completely emancipate the child under section 6 of this chapter.
(6) Order:
   (A) the child; or
   (B) the child's parent, guardian, or custodian;
to receive family services.
(7) Order a person who is a party to refrain from direct or indirect contact with the child.

SECTION 51. IC 31-34-21-1, AS AMENDED BY SEA 132-2006, SECTION 313, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) At any time after the date of an original dispositional decree, the juvenile court may order
(1) the department or
(2) the probation department,
to file a report on the progress made in implementing the decree.

(b) The juvenile court shall order the department to file a report every three (3) months after the dispositional decree is entered on the progress made in implementing the decree.

(c) If, after reviewing the report, the juvenile court seeks to consider modification of the dispositional decree, the juvenile court shall proceed under IC 31-34-23.

SECTION 52. IC 31-34-21-2, AS AMENDED BY SEA 132-2006, SECTION 314, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) In accordance with federal law. The case of each child in need of services under the supervision of the county office or the department must be reviewed at least once every six (6) months, or more often, if ordered by the court.
(b) The first of these periodic case reviews must occur:
   (1) at least six (6) months after the date of the child's removal from the child's parent, guardian, or custodian; or
   (2) at least six (6) months after the date of the dispositional decree; whichever comes first.
   (c) Each periodic case review must be conducted by the juvenile court in a formal court hearing.
(d) The court may perform a periodic case review any time after a progress report is filed as described in section 1 of this chapter.

SECTION 53. IC 31-34-22-2, AS AMENDED BY P.L.129-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as provided in subsection (b), a report prepared by the state:
   (1) for the juvenile court's review of the court's dispositional decree; or
   (2) prepared for use at a periodic case review under IC 31-34-21-2 or hearing under IC 31-34-21-7;
shall be made available to the child, and the child's parent, foster parent, guardian, guardian ad litem, court appointed special advocate, or custodian within a reasonable time after the report's presentation to the court or before the hearing.
   (b) If the court determines on the record that the report contains information that should not be released to the child or the child's parent, foster parent, guardian, or custodian, the court is not required to make the report available to the person as required in subsection (a). However, the court shall provide a copy of the report to the following:
   (1) Each attorney or guardian ad litem representing the child.
   (2) Each attorney representing the child's parent, guardian, or custodian.
   (3) Each court appointed special advocate.
   (e) The court may also provide a factual summary of the report to the child or the child's parent, foster parent, guardian, or custodian.
(b) In addition to the requirements of subsection (a), any report prepared by the state for the juvenile court's review shall also be made available to any court appointed special advocate within the same time period and in the same manner as required in the case of a parent under subsection (a). However, if under subsection (a) the court determines on the record that the report contains information that should not be released to the parent, the court shall still provide a copy of the report to any court appointed special advocate.

SECTION 54. IC 31-35-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. Except when a hearing is required after June 30, 1999, under section 4.5 of this chapter, the person filing the petition may request the court to set the petition for a hearing. Whenever a hearing is requested under this chapter, the court shall:
(1) commence a hearing on the petition not more than ninety (90) days after a petition is filed under this chapter; and
(2) complete a hearing on the petition not more than one hundred eighty (180) days after a petition is filed under this chapter.

SECTION 55. IC 31-37-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) The juvenile court shall release the child on the child's own recognition or to the child's parent, guardian, or custodian upon the person's written promise to bring the child before the court at a time specified. However, the court may order the child detained if the court finds probable cause to believe the child is a delinquent child and that:
   (1) the child is unlikely to appear for subsequent proceedings;
   (2) detention is essential to protect the child or the community;
   (3) the parent, guardian, or custodian:
       (A) cannot be located; or
       (B) is unable or unwilling to take custody of the child;
   (4) return of the child to the child's home is or would be:
       (A) contrary to the best interests and welfare of the child; and
       (B) harmful to the safety or health of the child; or
   (5) the child has a reasonable basis for requesting that the child not be released.
However, the findings under this subsection are not required if the child is ordered to be detained in the home of the child's parent, guardian, or custodian or is released subject to any condition listed in subsection (d).
(b) If a child is detained for a reason specified in subsection (a)(3), (a)(4), or (a)(5), the child shall be detained under IC 31-37-7-1.
(c) If a child is detained for a reason specified in subsection (a)(4), the court shall make written findings and conclusions that include the following:
   (1) The factual basis for the finding specified in subsection (a)(4).
   (2) A description of the family services available and efforts made to provide family services before removal of the child.
The reasons why efforts made to provide family services did not prevent removal of the child.

Whether efforts made to prevent removal of the child were reasonable.

Whenever the court releases a child under this section, the court may impose conditions upon the child, including:

1. home detention;
2. electronic monitoring;
3. a curfew restriction;
4. a protective order;
5. a no contact order;
6. an order to comply with Indiana law; or
7. an order placing any other reasonable conditions on the child's actions or behavior.

If the juvenile court releases a child to the child's parent, guardian, or custodian under this section, the court may impose conditions on the child's parent, guardian, or custodian to:

1. the safety of the child's physical or mental health;
2. the public's physical safety; or
3. that any combination of subdivisions (1) and (2) is satisfied.

The juvenile court shall accompany the court's dispositional decree with written findings and conclusions upon the record concerning the following:

1. The needs of the child for care, treatment, rehabilitation, or placement.
2. The need for participation by the parent, guardian, or custodian in the plan of care for the child.
3. The court's reasons for the disposition.

The juvenile court may incorporate a finding or conclusion from a predispositional report as a written finding or conclusion upon the record in the court's dispositional decree.

If a fee is collected under this section by the clerk, or the state central collection unit, the fee must be paid is due.

The clerk may not deduct the fee from a support or maintenance payment.

Except as provided under IC 33-32-4-6 and IC 33-37-7-2(g), if a fee is collected under this section by the clerk, the clerk shall forward the fee collected under this section to the county auditor in accordance with IC 33-37-7-12(a). If a fee is collected under this section by the central collection unit, the fee shall be deposited in the state general fund.

Income payors required to withhold income under IC 31-16-15 shall pay the annual fee required by subsection (b) through the income withholding procedures described in IC 31-16-15-1.

The following are repealed [effective July 1, 2006]: IC 31-27-3-24; IC 31-27-3-25; IC 31-27-4-26; IC 31-27-4-27; IC 31-27-4-28; IC 31-27-5-23; IC 31-27-5-24; IC 31-27-5-25; IC 31-27-6-20; IC 31-27-6-21; IC 31-27-6-22.

Section 61. [effective upon passage] (a) Notwithstanding the amendment of IC 12-17.2-2-3(a) by SEA 44-2006, SECTION 89, and notwithstanding SEA 132-2006, SECTION 378, requiring that the balance of the child care fund shall be transferred to the division of family resources child care fund after June 30, 2006, the child care fund shall remain in existence after June 30, 2006, until the entire balance of the child care fund is transferred to the division of family resources child care fund.

(b) This SECTION expires January 1, 2007.

Section 62. An emergency is declared for this act.
(Reference is to ESB 139 as reprinted March 3, 2006.)

C. LAWSON  BELL
LANANE  SUMMERS

Senate Conferences  House Conferences

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

CONFERENCE COMMITTEE REPORT
ESB 259–1; filed March 13, 2006, at 8:37 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 259 respectfully reports that said two committee have conferred and agreed as follows to wit:

These amendments were adopted and the bill is ordered to be engrossed for the second time.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-1-17-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005 (RETOACTIVE)]: Sec. 9.5. The:

(1) members of the authority;
(2) officers and employees of the authority; and
(3) executive director;

executing bonds, leases, obligations, or other agreements under this chapter are not subject to personal liability or accountability by reason of any act authorized by this chapter.

SECTION 2. IC 5-1-17-18.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005 (RETOACTIVE)]: Sec. 18.5. (a) This section applies to bids received with respect to a capital improvement under this chapter:

(1) that is constructed by, for, or on behalf of the authority; and
(2) for which only one (1) bid was received from a responsible bidder.

(b) The board may attempt to negotiate a more advantageous proposal and contract with the bidder if the board determines that rebidding:

(1) is not practicable or advantageous; or
(2) would adversely affect the construction schedule or budget of the project.

(c) The board shall prepare a bid file containing the following information:

(1) A copy of all documents that are included as part of the invitation for bids;
(2) A list of all persons to whom copies of the invitation for bids were given, including the following information:
   (A) The name and address of each person who received an invitation for bids.
   (B) The name of each bidder who responded and the dollar amount of the bid.
(C) A summary of the bid received.
(3) The basis on which the bid was accepted.
(4) Documentation of the board’s negotiating process with the bidder. The documentation must include the following:
   (A) A log of the dates and times of each meeting with the bidder.
   (B) A description of the nature of all communications with the bidder.
   (C) A copy of all written communications, including electronic communications, with the bidder.
(5) The entire contents of the contract file except for proprietary information included with the bid, such as trade secrets, manufacturing processes, and financial information that was not required to be made available for public inspection by the terms of the invitation for bids.

SECTION 3. IC 34-30-2-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2005 (RETOACTIVE)]: Sec. 8.5. IC 5-1-17-9.5 (Concerning members, officers, employees, and the executive director of the Indiana stadium and convention building authority for acts authorized by law).

SECTION 4. IC 36-1-12-13.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.1. (a) Except as provided in subsection (f), this section applies to contracts for public work only if the cost of the public work is estimated to be more than one hundred thousand dollars ($100,000).

(b) The contractor shall execute a payment bond to the appropriate political subdivision or agency, approved by and for the benefit of the political subdivision or agency, in an amount equal to the contract price. The payment bond is binding on the contractor, the subcontractor, and their successors and assigns for the payment of all indebtedness to a person for labor and services performed, material furnished, or services rendered. The payment bond must state that it is for the benefit of the subcontractors, laborers, material suppliers, and those performing services.

(c) The payment bond shall be deposited with the board. The payment bond must specify that:

(1) a modification, omission, or addition to the terms and conditions of the public work contract, plans, specifications, drawings, or profile;
(2) a defect in the public work contract; or
(3) a defect in the proceedings preliminary to the letting and awarding of the public work contract;

does not discharge the surety. The surety of the payment bond may not be released until one (1) year after the board’s final settlement with the contractor.

(d) A person to whom money is due for labor performed, material furnished, or services provided shall, within sixty (60) days after the completion of the labor or service, or within sixty (60) days after the last item of material has been furnished, file with the board signed duplicate statements of the amount due. The board shall forward to the surety of the payment bond one (1) of the signed duplicate statements. However, failure of the board to forward a signed duplicate statement does not affect the rights of a person to whom money is due. In addition, a failure to forward the statement does not operate as a defense for the surety.

(e) An action may not be brought against the surety until thirty (30) days after the filing of the signed duplicate statements with the board. If the indebtedness is not paid in full at the end of that thirty (30) day period the person may bring an action in court. The court action must be brought within sixty (60) days after the date of the final completion and acceptance of the public work.

(f) This subsection applies to contracts for a capital improvement entered into by, for, or on behalf of the Indiana stadium and convention building authority created by IC 5-1-17-6. The board awarding the contract for the capital improvement project may waive any payment bond requirement if the board, after public notice and hearing, determines:

(1) that:
   (A) an otherwise responsive and responsible bidder is unable to provide the payment bond; or
   (B) the cost or coverage of the payment bond is not in the best interest of the project; and
   (2) that an adequate alternative is provided through a letter of credit, additional retainage of at least ten percent (10%) of the contract amount, a joint payable check system, or other sufficient protective mechanism.

SECTION 5. IC 36-1-12-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) This section applies to public work contracts in excess of one hundred thousand dollars ($100,000) for projects other than highways, roads, streets, alleys, bridges, and appurtenant structures situated on streets, alleys, and dedicated highway rights-of-way. This section also applies to any lease-back arrangement that enters into a contract for public work, and a contractor who subcontracts parts of that contract, shall include in their respective contracts provisions for the retainage of portions of payments by the board to contractors, by contractors to subcontractors, and for the payment of subcontractors. At the discretion of the contractor, the retainage shall be held by the board or shall be placed in an escrow account with a bank, savings and loan institution, or the state as the escrow agent. The escrow agent shall be selected by mutual agreement between board and contractor or
The escrow agreement may include other terms and conditions that the board shall:

1. Withhold no more than ten percent (10%) of the dollar value of all work satisfactorily completed until the public work is fifty percent (50%) completed, and nothing further after that; or
2. Withhold no more than five percent (5%) of the dollar value of all work satisfactorily completed until the public work is substantially completed.

If upon substantial completion of the public work minor items remain uncompleted, an amount computed under subsection (f) of this section shall be withheld until those items are completed.

(d) The escrow agreement must contain the following provisions:

1. The escrow agent shall invest all escrowed principal in obligations selected by the escrow agent.
2. The escrow agent shall hold the escrowed principal and income until receipt of notice from the board and the contractor, or the contractor and the subcontractor, specifying the part of the escrowed principal to be released from the escrow and the person to whom that portion is to be released. After receipt of the notice, the escrow agent shall remit the designated part of escrowed principal and the same proportion of then escrowed income to the person specified in the notice.
3. The escrow agent shall be compensated for the agent's services. The parties may agree on a reasonable fee comparable with fees being charged for the handling of escrow accounts of similar size and duration. The fee shall be paid from the escrowed income.

The escrow agreement may include other terms and conditions consistent with this subsection, including provisions authorizing the escrow agent to commingle the escrowed funds with funds held in other escrow accounts and limiting the liability of the escrow agent.

(e) Except as provided by subsection (i), the contractor shall furnish the board with a performance bond equal to the contract price. If acceptable to the board, the performance bond may provide for incremental bonding in the form of multiple or chronological bonds that, when taken as a whole, equal the contract price. The surety on the performance bond may not be released until one (1) year after the date of the board's final settlement with the contractor. The performance bond must specify that:

1. A modification, omission, or addition to the terms and conditions of the public work contract, plans, specifications, drawings, or profile;
2. A defect in the public work contract; or
3. A defect in the proceedings preliminary to the letting and awarding of the public work contract; does not discharge the surety.

(f) The board or escrow agent shall pay the contractor within sixty-one (61) days after the date of substantial completion, subject to sections 11 and 12 of this chapter. Payment by the escrow agent shall include all escrowed principal and escrowed income. If within sixty-one (61) days after the date of substantial completion there remain uncompleted minor items, an amount equal to two hundred percent (200%) of the value of each item as determined by the architect-engineer shall be withheld until the item is completed. Required warranties begin not later than the date of substantial completion.

(g) Actions against a surety on a performance bond must be brought within one (1) year after the date of the board's final settlement with the contractor.

(h) This subsection applies to public work contracts of less than two hundred fifty thousand dollars ($250,000). The board may waive the performance bond requirement of subsection (e) and accept from a contractor an irrevocable letter of credit for an equivalent amount from an Indiana financial institution approved by the department of financial institutions instead of a performance bond. Subsections (e) through (g) apply to a letter of credit submitted under this subsection.

(i) This subsection applies to the Indiana stadium and convention building authority created by IC 5-1-17-6. The board awarding the contract for a capital improvement project may waive any performance bond requirement if the board, after public notice and hearing, determines:

1. That:
   (A) An otherwise responsive and responsible bidder is unable to provide the performance bond; or
   (B) The cost or coverage of the performance bond is not in the best interest of the project;
2. That an adequate alternative is provided through a letter of credit, additional retainage of at least ten percent (10%) of the contract amount, a joint payable check system, or other sufficient protective mechanism.

SECTION 6. IC 36-7-31-14.1, AS ADDED BY P.L.214-2005, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14.1. (a) The budget director appointed under IC 4-12-1-3 may determine that, commencing July 1, 2007, there may be captured in the tax area up to eleven million dollars ($11,000,000) per year in addition to the up to five million dollars ($5,000,000) of state revenue to be captured by the tax area under section 14 of this chapter, for up to thirty-four (34) consecutive years. The budget director's determination must specify that the termination date of the tax area for purposes of the collection of the additional eleven million dollars ($11,000,000) per year is extended to not later than:

1. January 1, 2041; or
2. January 1, 2010, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under IC 5-1-17-26.

Following the budget director's determination, and commencing July 1, 2007, the maximum total amount of revenue captured by the tax area for years ending before January 1, 2041, shall be sixteen million dollars ($16,000,000) per year.

(b) The additional revenue captured pursuant to a determination under subsection (a) shall be distributed to the capital improvement board or its designee. So long as there are any current or future obligations owned by the capital improvement board to the Indiana stadium and convention building authority created by IC 5-1-17-26 or any state agency under a lease or another agreement entered into between the capital improvement board and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the capital improvement board or its designee shall deposit the additional revenue received under this subsection in a special fund, which may be used only for the payment of the obligations described in this subsection.

(c) Notwithstanding the budget director's determination under subsection (a), after January 1, 2010, the capture of the additional eleven million dollars ($11,000,000) per year described in subsection (a) terminates on January 1 of the year following the first year in which no obligations of the capital improvement board described in subsection (b) remain outstanding.

SECTION 7. An emergency is declared for this act.

(Reference is to ESB 259 as reprinted March 1, 2006.)

KENLEY ESPICH
HUME CRAWFORD
Senate Conferences  House Conferences

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

CONFERENCE COMMITTEE REPORT
EHB 1155–1; filed March 13, 2006, at 8:39 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 1155 respectfully reports that said two committees have conferred and agreed as follows to wit:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-2-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this
chapter:

"Criminal justice" includes activities concerning:
(1) the prevention or reduction of criminal offenses;
(2) the enforcement of criminal law;
(3) the apprehension, prosecution, and defense of persons accused of crimes;
(4) the disposition of convicted persons, including corrections, rehabilitation, probation, and parole; and
(5) the participation of members of the community in corrections.

"Entitlement jurisdictions" include the state and certain local governmental units as defined in Section 402(a) of the Omnibus Act.

"Institute" means the Indiana criminal justice institute.

"Juvenile justice" includes activities concerning:
(1) the prevention or reduction of juvenile delinquency;
(2) the apprehension and adjudication of juvenile offenders;
(3) the disposition of juvenile offenders including protective techniques and practices;
(4) the prevention of child abuse and neglect; and
(5) the discovery, protection, and disposition of children in need of services.

"Juvenile Justice Act" means the Juvenile Justice and Delinquency Prevention Act of 1974 and any amendments made to that act.

"Local governmental entities" include:
(1) trial courts; and
(2) political subdivisions (as defined in IC 36-1-2-13).

"Offender" has the meaning set forth in IC 5-2-12-4.

"Omnibus Act" means the Omnibus Crime Control and Safe Streets Act of 1968 and any amendments made to that act.

"Trustees" refers to the board of trustees of the institute.

SECTION 2. IC 5-2-6-3, AS AMENDED BY P.L.192-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The institute is established to do the following:
(1) Evaluate state and local programs associated with:
(A) the prevention, detection, and solution of criminal offenses;
(B) law enforcement; and
(C) the administration of criminal and juvenile justice.
(2) Improve and coordinate all aspects of law enforcement, juvenile justice, and criminal justice in this state.
(3) Stimulate criminal and juvenile justice research.
(4) Develop new methods for the prevention and reduction of crime.
(5) Prepare applications for funds under the Omnibus Act and the Juvenile Justice Act.
(6) Administer victim and witness assistance funds.
(7) Administer the traffic safety functions assigned to the institute under IC 9-27-2.
(8) Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this state.
(9) Serve as the criminal justice statistical analysis center for this state.
(10) Establish and maintain, in cooperation with the office of the secretary of family and social services, a sex and violent offender directory.
(11) Identify grants and other funds that can be used by the department of correction to carry out its responsibilities concerning sex offender registration under IC 11-8-8.
(12) Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.5.
(13) Prescribe or approve forms as required under IC 5-2-12.
(14) Provide judges, law enforcement officers, prosecuting attorneys, parole officers, and probation officers with information and training concerning the requirements in IC 5-2-12 and the use of the sex and violent offender directory.
(15) Develop and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.

SECTION 3. IC 5-2-6-14, AS AMENDED BY P.L.64-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) The victim and witness assistance fund is established. The institute shall administer the fund. Except as provided in subsection (c), expenditures from the fund may be made only in accordance with appropriations made by the general assembly.
(b) The source of the victim and witness assistance fund is the family violence and victim assistance fund established by IC 12-18-5-2.
(c) The institute may use money from the victim and witness assistance fund when awarding a grant or entering into a contract under this chapter, if the money is used for the support of a program in the office of a prosecuting attorney or in a state or local law enforcement agency designed to:
(1) help evaluate the physical, emotional, and personal needs of a victim resulting from a crime, and counsel or refer the victim to those agencies or persons in the community that can provide the services needed;
(2) provide transportation for victims and witnesses of crime to attend proceedings in the case when necessary; or
(3) provide other services to victims or witnesses of crime when necessary to enable them to participate in criminal proceedings without undue hardship or trauma.
(d) Money in the victim and witness assistance fund at the end of a particular fiscal year does not revert to the general fund.
(e) The institute may use money in the fund to:
(1) pay the costs of administering the fund, including expenditures for personnel and data;
(2) establish and maintain support the Indiana sex and violent offender directory registry under IC 5-2-12; IC 11-8-8;
(3) provide training for persons to assist victims; and
(4) establish and maintain a victim notification system under IC 11-8-7 if the department of correction establishes the system.

SECTION 4. IC 10-13-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) As used in this chapter, "criminal history data" means information collected by criminal justice agencies, the United States Department of Justice for the department's information system, or individuals.
(b) The term consists of the following:
(1) Identifiable descriptions and notations of arrests, indictments, informations, or other formal criminal charges.
(2) Information regarding a sex and violent offender (as defined in IC 5-2-12-4) obtained through sex and violent offender registration under IC 5-2-12; IC 11-8-8.
(3) Any disposition, including sentencing, and correctional system intake, transfer, and release.

SECTION 5. IC 10-13-3-27, AS AMENDED BY P.L.234-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 27. (a) Except as provided in subsection (b), on request, a law enforcement agency shall release or allow inspection of a limited criminal history to or allow inspection of a limited criminal history by nonprofit criminal justice organizations or individuals only if the subject of the request:
(1) has applied for employment with a nonprofit criminal justice organization or individual;
(2) has applied for a license and has provided criminal history data as required by law to be provided in connection with the license;
(3) is a candidate for public office or a public official;
(4) is in the process of being apprehended by a law enforcement agency;
(5) is placed under arrest for the alleged commission of a crime;
(6) has charged that the subject's rights have been abused repeatedly by criminal justice agencies;
(7) is the subject of a judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;
(8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;
(9) is currently residing in a location designated by the department of child services (established by IC 31-33-1.5-2) or by a juvenile court as the out-of-home placement for a child at
the time the child will reside in the location;
(10) has volunteered services at a public school (as defined in IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12) that involve contact with, care of, or supervision over a student enrolled in the school;
(11) is being investigated for welfare fraud by an investigator of the division of family resources or a county office of family and children;
(12) is being sought by the parent locator service of the child support bureau of the division of family and children;
(13) is or was required to register as a sex and violent offender under IC 5-2-12-8; or
(14) has been convicted of any of the following:
(A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.
(B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.
(C) Child molesting (IC 35-42-4-3).
(D) Child exploitation (IC 35-42-4-4(b)).
(E) Possession of child pornography (IC 35-42-4-4(c)).
(F) Vicarious sexual gratification (IC 35-42-4-5).
(G) Child solicitation (IC 35-42-4-6).
(H) Child seduction (IC 35-42-4-7).
(I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
(J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the following noncriminal justice organizations:
(1) Federally chartered or insured banking institutions.
(2) Officials of state and local government for any of the following purposes:
   (A) Employment with a state or local governmental entity.
   (B) Licensing.

(c) Any person who uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor.

SECTION 6. IC 10-13-3-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 30. (a) Except as provided in subsection (c), on request for release or inspection of a limited criminal history, law enforcement agencies may, if the agency has complied with the reporting requirements in section 24 of this chapter, and the department shall do the following:
(1) Require a form, provided by law enforcement agencies and the department, to be completed. The form shall be maintained for two (2) years and shall be available to the record subject upon request.
(2) Collect a three dollar ($3) fee to defray the cost of processing a request for inspection.
(3) Collect a seven dollar ($7) fee to defray the cost of processing a request for release. However, law enforcement agencies and the department may not charge the fee for requests received from the parent locator service of the child support bureau of the division of family and children.

(b) Law enforcement agencies and the department shall edit information so that the only information released or inspected is information that:
(1) has been requested; and
(2) is limited criminal history information.

(c) The fee required under subsection (a) shall be waived if the request relates to the Indiana sex and violent offender directory registry under IC 5-2-12-8 or concerns a person required to register as a sex and violent offender under IC 5-2-12-8. IC 11-8-8.

SECTION 7. IC 10-13-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. As used in this chapter, “juvenile history data” means information collected by criminal or juvenile justice agencies or individuals about a child who is alleged to have committed a reportable act and consists of the following:
(1) Descriptions and notations of events leading to the taking of the child into custody by a juvenile justice agency for a reportable act allegedly committed by the child.
(2) A petition alleging that the child is a delinquent child.
(3) Dispositional decrees concerning the child that are entered under IC 31-37-19 (or IC 31-6-4-15.9 before its repeal).
(4) The findings of a court determined after a hearing is held under IC 31-37-20-2 or IC 31-37-20-3 (or IC 31-6-4-19(b) or IC 31-6-4-19(i) before their repeal) concerning the child.
(5) Information:
(A) regarding a child who has been adjudicated a delinquent child for committing an act that would be an offense described in IC 5-2-12-4 IC 11-8-5 if committed by an adult; and
(B) that is obtained through sex and violent offender registration under IC 5-2-12-8.

SECTION 8. IC 10-13-6-10, AS AMENDED BY P.L.142-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) This section applies to the following:
(1) A person convicted of a felony under IC 35-42 (offenses against the person) or IC 35-43-2-1 (burglary):
   (A) after June 30, 1996, whether or not the person is sentenced to a term of imprisonment; or
   (B) before July 1, 1996, if the person is held in jail or prison on or after July 1, 1996.
(2) A person convicted of a criminal law in effect before October 1, 1977, that penalized an act substantially similar to a felony described in IC 35-42 or IC 35-43-2-1 or that would have been an included offense of a felony described in IC 35-42 or IC 35-43-2-1 if the felony had been in effect:
   (A) after June 30, 1998, whether or not the person is sentenced to a term of imprisonment; or
   (B) before July 1, 1998, if the person is held in jail or prison on or after July 1, 1998.
(3) A person convicted of a felony, conspiracy to commit a felony, or attempt to commit a felony:
   (A) after June 30, 2005, whether or not the person is sentenced to a term of imprisonment; or
   (B) before July 1, 2005, if the person is held in jail or prison on or after July 1, 2005.
(b) A person described in subsection (a) shall provide a DNA sample to the:
(1) department of correction or the designee of the department of correction if the offender is committed to the department of correction; or
(2) county sheriff or the designee of the county sheriff if the offender is held in a county jail or other county penal facility, placed in a community corrections program (as defined in IC 35-38-2.6-2), or placed on probation; or
(3) agency that supervises the person, or the agency’s designee, if the person is on conditional release in accordance with IC 35-38-1-27.

A person is not required to submit a blood sample if doing so would present a substantial and an unreasonable risk to the person’s health.
(c) The detention, arrest, or conviction of a person based on a data base match or data base information is not invalidated if a court determines that the DNA sample was obtained or placed in the Indiana DNA database by mistake.

SECTION 9. IC 10-13-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) The superintendent may issue specific guidelines relating to procedures for DNA sample collection and shipment within Indiana for DNA identification testing.
(b) The superintendent shall issue specific guidelines related to procedures for DNA sample collection and shipment by the:
(1) county sheriff or designee of the county sheriff under section 10(b)(2) of this chapter; or
(2) supervising agency or designee of the supervising agency under section 10(b)(3) of this chapter.

The superintendent shall provide each county sheriff and
supervising agency with the guidelines issued under this subsection. A county sheriff and supervising agency shall collect and ship DNA samples in compliance with the guidelines issued under this subsection.

(c) The superintendent may delay the implementation of the collection of DNA samples under section 10(b)(2) or 10(b)(3) of this chapter in one (1) or more counties until the earlier of the following:

(1) A date set by the superintendent.

(2) The date funding becomes available by grant through the criminal justice institute.

If the superintendent delays implementation of section 10(b)(2) or 10(b)(3) of this chapter or terminates a delay under section 10(b)(2) or 10(b)(3) of this chapter in any county, the superintendent shall notify the county sheriff in writing of the superintendent's action.

SECTION 10. IC 11-8-2-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. The department shall do the following:

(1) Maintain the Indiana sex offender registry established under IC 36-2-13-5.5.

(2) Prescribe and approve a format for sex offender registration as required by IC 11-8-8.

(3) Provide:

(A) judgment;

(B) law enforcement officials;

(C) prosecuting attorneys;

(D) parole officers;

(E) probation officers; and

(F) community corrections officials;

with information and training concerning the requirements of IC 11-8-8 and the use of the Indiana sex offender registry.

(4) Upon request of a neighborhood association:

(A) transmit to the neighborhood association information concerning sex offenders who reside near the location of the neighborhood association; or

(B) provide instructional materials concerning the use of the Indiana sex offender registry to the neighborhood association.

SECTION 11. IC 11-8-2-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) The Indiana sex offender registry established under IC 36-2-13-5.5 and maintained by the department under section 12 of this chapter must include the names of each offender who is or has been required to register under IC 11-8-8.

(b) The department shall do the following:

(1) Ensure that the Indiana sex offender registry is updated at least once per year with information provided by a local law enforcement authority (as defined in IC 11-8-8-2).

(2) Publish the Indiana sex offender registry on the Internet through the computer gateway administered by the office of technology established by IC 4-13.1-2-1, and ensure that the Indiana sex offender registry displays the following or similar words:

"Based on information submitted to law enforcement, a person whose name appears in this registry has been convicted of a sex offense or has been adjudicated a delinquent child for an act that would be a sex offense if committed by an adult."

SECTION 12. IC 11-8-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The department may, under IC 4-22-2, classify as confidential the following personal information maintained on a person who has been committed to the department or who has received correctional services from the department:

(1) Medical, psychiatric, or psychological data or opinion which might adversely affect that person's emotional well-being.

(2) Information relating to a pending investigation of alleged criminal activity or other misconduct.

(3) Information which, if disclosed, might result in physical harm to that person or other persons.

(4) Sources of information obtained only upon a promise of confidentiality.

(5) Information required by law or promulgated rule to be maintained as confidential.

(b) The department may deny the person about whom the information pertains and other persons access to information classified as confidential under subsection (a). However, confidential information shall be disclosed:

(1) upon the order of a court;

(2) to employees of the department who need the information in the performance of their lawful duties;

(3) to other agencies in accord with IC 4-1-6-2(m) and IC 4-1-6-8.5;

(4) to the governor or the governor's designee;

(5) for research purposes in accord with IC 4-1-6-8.6(b);

(6) to the department of correction ombudsman bureau in accord with IC 11-11-1.5; or

(7) if the commissioner determines there exists a compelling public interest as defined in IC 4-1-6-1, for disclosure which overrides the interest to be served by nondisclosure.

(c) The department shall disclose information classified as confidential under subsection (a)(1) to a physician, psychiatrist, or psychologist designated in writing by the person about whom the information pertains.

(d) The department may disclose confidential information to the following:

(1) A provider of sex offender management, treatment, or programming.

(2) A provider of mental health services.

(3) Any other service provider working with the department to assist in the successful return of an offender to the community following the offender's release from incarceration.

(e) This subsection does not prohibit the department from sharing information available on the Indiana sex offender registry with another person.

SECTION 13. IC 11-8-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 8. Sex Offender Registration

Sec. 1. As used in this chapter, "correctional facility" has the meaning set forth in IC 4-13.5-1-1.

Sec. 2. As used in this chapter, "local law enforcement authority" means the:

(1) chief of police of a consolidated city; or

(2) sheriff of a county that does not contain a consolidated city.

Sec. 3. As used in this chapter, "principal residence" means the residence where a sex offender spends the most time. The term includes a residence owned or leased by another person if the sex offender:

(1) does not own or lease a residence; or

(2) spends more time at the residence owned or leased by the other person than at the residence owned or leased by the sex offender.

Sec. 4. As used in this chapter, "register" means to provide a local law enforcement authority with the information required under section 8 of this chapter.

Sec. 5. (a) As used in this chapter, "sex offender" means a person convicted of any of the following offenses:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2).

(3) Child molesting (IC 35-42-4-3).

(4) Child exploitation (IC 35-42-4-4(b)).

(5) Vicarious sexual gratification (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

(7) Child seduction (IC 35-42-4-7).

(8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9).

(9) Incest (IC 35-46-1-3).

(10) Sexual battery (IC 35-42-4-8).

(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.

(12) Criminal confinement (IC 35-42-3-3), if the victim is...
less than eighteen (18) years of age.

(13) Possession of child pornography (IC 35-42-4-4(c)), if the person has a prior unrelated conviction for possession of child pornography (IC 35-42-4-4(c)).

(14) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (13).

(15) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (14).

(b) The term includes:

(1) a person who is required to register as a sex offender in any jurisdiction; and

(2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

Sec. 6. As used in this chapter, "sexually violent predator" has the meaning set forth in IC 35-38-1-7.5.

Sec. 7. (a) Subject to section 19 of this chapter, the following persons must register under this chapter:

(1) A sex offender who resides in Indiana. A sex offender resides in Indiana if either of the following applies:

(A) The sex offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.

(B) The sex offender owns real property in Indiana and returns to Indiana at any time.

(2) A sex offender who works or carries on a vocation or intends to work or carry on a vocation full-time or part-time for a period of:

(A) exceeding four (4) consecutive days; or

(B) for a total period exceeding thirty (30) days; during any calendar year inIndiana, whether the sex offender is financially compensated, volunteered, or is acting for the purpose of governmental or educational benefit.

(3) A sex offender who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education in Indiana.

(b) Except as provided in subsection (e), a sex offender who resides in Indiana shall register with the local law enforcement authority in the county where the sex offender resides. If a sex offender resides in more than one (1) county, the sex offender shall register with the local law enforcement authority in each county in which the sex offender resides. If the sex offender is also required to register under subsection (a)(2) or (a)(3), the sex offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (d).

(c) A sex offender described in subsection (a)(2) who shall register with the local law enforcement authority in the county where the sex offender is or intends to be employed or carry on a vocation. If a sex offender is or intends to be employed or carry on a vocation in more than one (1) county, the sex offender shall register with the local law enforcement authority in each county. If the sex offender is also required to register under subsection (a)(1) or (a)(3), the sex offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (d).

(d) A sex offender described in subsection (a)(3) shall register with the local law enforcement authority in the county where the sex offender is enrolled or intends to be enrolled as a student. If the sex offender is also required to register under subsection (a)(1) or (a)(2), the sex offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (c).

(e) A sex offender described in subsection (a)(1)(B) shall register with the local law enforcement authority in the county in which the real property is located. If the sex offender is also required to register under subsection (a)(1)(A), (a)(2), or (a)(3), the sex offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b), (c), or (d).

(1) A person who is required to register as a sex offender under subsection (a), (b), (c), or (d) of this section shall make a photograph of the sex offender not more than seventy-two (72) hours after the sex offender arrives in the county in which the sex offender is required to register under subsection (a) if committed by an adult.

(2) The required photograph shall be forwarded to the Indiana sex offender registry system on or before the sex offender arrives in each county.

(3) A person who is required to register as a sex offender under subsection (a), (b), (c), or (d) of this section shall make and publish a photographic and computer display of the sex offender not more than seventy-two (72) hours after the sex offender arrives in the county in which the sex offender is required to register under subsection (a) if committed by an adult.

(4) The required photograph shall be forwarded to the Indiana sex offender registry system on or before the sex offender arrives in each county.

Sec. 8. The law enforcement authority shall:

(1) immediately update the Indiana sex offender registry web site established under IC 36-2-13-5.5; and
The local law enforcement authority shall provide the department and a law enforcement agency described in subdivision (2) with the information provided by the sex offender during registration.

Sec. 8. The registration required under this chapter must include the following information:

1. The sex offender's full name, alias, any name by which the sex offender is previously known, date of birth, sex, race, height, weight, hair color, eye color, any scars, marks, or tattoos, Social Security number, driver's license number or state identification number, principal residence address, and mailing address, if different from the sex offender's principal residence address.
2. A description of the offense for which the sex offender was convicted, the date of conviction, the county of the conviction, the cause number of the conviction, and the sentence imposed, if applicable.
3. If the person is required to register under section 7(a)(2) or 7(a)(3) of this chapter, the name and address of each of the sex offender's employers in Indiana, the name and address of each campus or location where the sex offender is enrolled in school in Indiana, and the address where the sex offender stays or intends to stay while in Indiana.
4. A recent photograph of the sex offender.
5. If the sex offender is a sexually violent predator, that the sex offender is a sexually violent predator.
6. If the sex offender is required to register for life, that the sex offender is required to register for life.
7. Any other information required by the department.

Sec. 9. (a) Not more than seven (7) days before an Indiana sex offender who is required to register under this chapter is scheduled to be released from a secure private facility (as defined in IC 31-9-2-115), or released from a juvenile detention facility, an official of the facility shall do the following:

1. Orally inform the sex offender of the sex offender's duty to register under this chapter and require the sex offender to sign a written statement that the sex offender was orally informed or, if the sex offender refuses to sign the statement, certify that the sex offender was orally informed of the duty to register.
2. Deliver a form advising the sex offender of the sex offender's duty to register under this chapter and require the sex offender to sign a written statement that the sex offender received the written notice or, if the sex offender refuses to sign the statement, certify that the sex offender was given the written notice of the duty to register.
3. Obtain the address where the sex offender expects to reside after the sex offender's release.
4. Transmit to the local law enforcement authority in the county where the sex offender expects to reside the sex offender's name, date of release or transfer, new address, and the offense or delinquent act committed by the sex offender.

(b) Not more than seventy-two (72) hours after a sex offender who is required to register under this chapter is released or transferred as described in subsection (a), an official of the facility shall notify the state police the following:

1. The sex offender's fingerprints, photograph, and identification factors.
2. The address where the sex offender expects to reside after the sex offender's release.
3. The complete criminal history data (as defined in IC 10-13-3-5) or, if the sex offender committed a delinquent act, juvenile history data (as defined in IC 10-13-4-4) of the sex offender.
4. Information regarding the sex offender's past treatment for mental disorders.
5. Information as to whether the sex offender has been determined to be a sexually violent predator.
6. This subsection applies if a sex offender is placed on probation or in a community corrections program without being confined in a penal facility. The probation office serving the court in which the sex offender is sentenced shall perform the duties required under subsections (a) and (b).

Sec. 10. Notwithstanding any other law, upon receiving a sex offender's fingerprints from a correctional facility, the state police shall immediately send the fingerprints to the Federal Bureau of Investigation.

Sec. 11. (a) If a sex offender who is required to register under this chapter changes:

1. Principal residence address; or
2. If section 7(a)(2) or 7(a)(3) of this chapter applies, the place where the sex offender stays in Indiana;
the sex offender shall register not more than seventy-two (72) hours after the address change with the local law enforcement authority with whom the sex offender last registered.

(b) If a sex offender moves to a new county in Indiana, the local law enforcement authority referred to in subsection (a) shall inform the local law enforcement authority in the new county in Indiana of the sex offender's residence and forward all relevant registration information concerning the sex offender to the local law enforcement authority in the new county. The local law enforcement authority receiving notice under this subsection shall verify the address of the sex offender under section 13 of this chapter not more than seven (7) days after receiving the notice.

(c) If a sex offender who is required to register under section 7(a)(2) or 7(a)(3) of this chapter changes the sex offender's principal place of employment, principal place of vocation, or campus or location where the sex offender is enrolled in school, the sex offender shall register not more than seventy-two (72) hours after the change with the local law enforcement authority with whom the sex offender last registered.

(d) If a sex offender moves the sex offender's place of employment, vocation, or enrollment to a new county in Indiana, the local law enforcement authority referred to in subsection (c) shall inform the local law enforcement authority in the new county of the sex offender's new principal place of employment, vocation, or enrollment by forwarding relevant registration information to the local law enforcement authority in the new county.

(e) If a sex offender moves the sex offender's residence, place of employment, vocation, or enrollment to a new state, the local law enforcement authority shall inform the state police in the new state of the sex offender's new place of residence, employment, or enrollment.

(f) A local law enforcement authority shall make registration information, including information concerning the duty to register and the penalty for failing to register, available to a sex offender.

(g) A local law enforcement authority who is notified of a change under subsection (a) or (c) shall immediately update the Indiana sex offender registry web site established under IC 36-2-13-5.5.

Sec. 12. (a) As used in this section, "temporary residence" means a residence:

1. that is established to provide transitional housing for a person without another residence; and
2. in which a person is not typically permitted to reside for more than thirty (30) days in a sixty (60) day period.

(b) This section applies only to a sex offender who resides in a temporary residence. In addition to the other requirements of this chapter, a sex offender who resides in a temporary residence shall register in person with the local law enforcement authority in which the temporary residence is located:

1. not more than seventy-two (72) hours after the sex offender moves into the temporary residence; and
2. during the period in which the sex offender resides in a temporary residence, at least once every seven (7) days following the sex offender's initial registration under subdivision (1).

(c) A sex offender's obligation to register in person once every seven (7) days terminates when the sex offender no longer resides in the temporary residence. However, all other requirements imposed on a sex offender by this chapter continue in force, including the requirement that a sex offender register the sex offender's new address with the local law enforcement authority.

Sec. 13. (a) To verify a sex offender's current residence, the
local law enforcement authority shall do the following:

(1) Mail a reply form to each sex offender in the county at the sex offender's listed address at least one (1) time per year, beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the sex offender is:
   (A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
   (B) placed in a community transition program;
   (C) placed in a community corrections program;
   (D) placed on parole; or
   (E) placed on probation;
   whichever occurs first.

(2) Mail a reply form to each sex offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the sex offender is:
   (A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
   (B) placed in a community transition program;
   (C) placed in a community corrections program;
   (D) placed on parole; or
   (E) placed on probation;
   whichever occurs first.

(3) Personally visit each sex offender in the county at the sex offender's listed address at least one (1) time per year, beginning seven (7) days after the local law enforcement authority receives a notice under section 7 of this chapter or the date the sex offender is:
   (A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
   (B) placed in a community transition program;
   (C) placed in a community corrections program;
   (D) placed on parole; or
   (E) placed on probation;
   whichever occurs first.

(4) Personally visit each sex offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 7 of this chapter or the date the sex offender is:
   (A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;
   (B) placed in a community transition program;
   (C) placed in a community corrections program;
   (D) placed on parole; or
   (E) placed on probation;
   whichever occurs first.

(b) If a sex offender fails to return a signed reply form either by mail or in person, not later than fourteen (14) days after mailing, or appears not to reside at the listed address, the local law enforcement authority shall immediately notify the department and the prosecuting attorney.

Sec. 14. At least once per calendar year, a sex offender who is required to register under this chapter shall:

(1) report in person to the local law enforcement authority;
(2) register; and
(3) be photographed by the local law enforcement authority;

in each location where the offender is required to register.

Sec. 15. (a) A sex offender who is a resident of Indiana shall obtain and keep in the sex offender's possession:

(1) a valid Indiana driver's license; or
(2) a valid Indiana identification card (as described in IC 9-24-16).

(b) A sex offender required to register in Indiana who is not a resident of Indiana shall obtain and keep in the sex offender's possession:

(1) a valid driver's license issued by the state in which the sex offender resides; or
(2) a valid state issued identification card issued by the state in which the sex offender resides.

(c) A person who knowingly or intentionally violates this section commits failure of a sex offender to possess identification, a Class A misdemeanor. However, the offense is a Class D felony if the person:

(1) is a sexually violent predator; or
(2) has a prior unrelated conviction:
   (A) under this section; or
   (B) based on the person's failure to comply with any requirement imposed on an offender under this chapter.

(d) It is a defense to a prosecution under this section that:

(1) the person has been unable to obtain a valid driver's license or state issued identification card because less than thirty (30) days have passed since the person's release from incarceration; or
(2) the person possesses a driver's license or state issued identification card that expired not more than thirty (30) days before the date the person violated subsection (a) or (b).

Sec. 16. (a) A sex offender who is required to register under this chapter may not petition for a change of name under IC 34-28-2.

(b) If a sex offender who is required to register under this chapter changes the sex offender's name due to marriage, the sex offender must register with the local law enforcement authority not more than seven (7) days after the name change.

Sec. 17. A sex offender who knowingly or intentionally:

(1) fails to register when required to register under this chapter;
(2) fails to register in every location where the sex offender is required to register under this chapter;
(3) makes a material misstatement or omission while registering as a sex offender under this chapter; or
(4) fails to register in person and be photographed at least once (1) time per year as required under this chapter;

commits a Class D felony. However, the offense is a Class C felony if the sex offender has a prior unrelated conviction for an offense under this section or based on the person's failure to comply with any requirement imposed on a sex offender under this chapter.

Sec. 18. (a) A sexually violent predator who will be absent from the sexually violent predator's principal residence for more than seventy-two (72) hours shall inform the local law enforcement authority, in person or in writing, of the following:

(1) That the sexually violent predator will be absent from the sexually violent predator's principal residence for more than seventy-two (72) hours.
(2) The location where the sexually violent predator will be located during the absence from the sexually violent predator's principal residence.
(3) The length of time the sexually violent predator will be absent from the sexually violent predator's principal residence.

(b) A sexually violent predator who will spend more than seventy-two (72) hours in a county in which the sexually violent predator is not required to register shall inform the local law enforcement authority in the county in which the sexually violent predator is not required to register, in person or in writing, of the following:

(1) That the sexually violent predator will spend more than seventy-two (72) hours in the county.
(2) The location where the sexually violent predator will be located while spending time in the county.
(3) The length of time the sexually violent predator will remain in the county.

Upon request of the local law enforcement authority of the county in which the sexually violent predator is not required to register, the sexually violent predator shall provide the local law enforcement authority with any additional information that will assist the local law enforcement authority in determining the sexually violent predator's whereabouts during the sexually
violent predator's stay in the county.

(c) A sexually violent predator who knowingly or intentionally violates this section commits failure to notify, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this section based on the person's failure to comply with any requirement imposed on a sex offender under this chapter.

Sec. 19. (a) Except as provided in subsections (b) through (e), a sex offender is required to register under this chapter until the expiration of ten (10) years after the date the sex offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21) or a secure juvenile detention facility of a state or another jurisdiction;
(2) is placed in a community transition program;
(3) is placed in a community corrections program;
(4) is placed on parole; or
(5) is placed on probation;

whichever occurs last. The department shall ensure that an offender who is no longer required to register as a sex offender is notified that the obligation to register has expired.

(b) A sex offender who is a sexually violent predator is required to register for life.

(c) A sex offender who is convicted of at least one (1) sex offense that the sex offender committed:

(1) when the person was at least eighteen (18) years of age; and
(2) against a victim who was less than twelve (12) years of age at the time of the crime;

is required to register for life.

(d) A sex offender who is convicted of at least one (1) sex offense in which the sex offender:

(1) proximately caused serious bodily injury or death to the victim;
(2) used force or the threat of force against the victim or a member of the victim’s family; or
(3) rendered the victim unconscious or otherwise incapable of giving voluntary consent;

is required to register for life.

(e) A sex offender who is convicted of at least two (2) unrelated sex offenses is required to register for life.

Sec. 20. (a) The governor may enter into a compact with one (1) or more jurisdictions outside Indiana to exchange notifications concerning the release, transfer, or change of address, employment, vocation, or enrollment of a sex offender between Indiana and the other jurisdiction or the other jurisdiction and Indiana.

(b) The compact must provide for the designation of a state agency to coordinate the transfer of information.

(c) If the state agency receives information that a sex offender has relocated to Indiana to reside, engage in employment or a vocation, or enroll in school, the state agency shall inform in writing the local law enforcement authority where the sex offender is required to register in Indiana of:

(1) the sex offender's name, date of relocation, and new address; and
(2) the sex offense or delinquent act committed by the sex offender.

(d) The state agency shall determine, following a hearing:

(1) whether a person convicted of an offense in another jurisdiction is required to register as a sex offender in Indiana;
(2) whether an out of state sex offender is a sexually violent predator; and
(3) the period in which an out of state sex offender who has moved to Indiana will be required to register as a sex offender in Indiana.

SECTION 14. IC 11-13-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) A person sentenced under IC 35-50 shall be released on parole or discharged from the person's term of imprisonment under IC 35-50 without a parole release hearing.

(b) A person sentenced for an offense under laws other than IC 35-50 who is eligible for release on parole, or a person whose parole is revoked and is eligible for reinstatement on parole under rules adopted by the parole board shall, before the date of the person's parole eligibility, be granted a parole release hearing to determine whether parole will be granted or denied. The hearing shall be conducted by one (1) or more of the parole board members. If one (1) or more of the members conduct the hearing on behalf of the parole board, the final decision shall be rendered by the full parole board based upon the record of the proceeding and the hearing conductor's findings. Before the hearing, the parole board shall order an investigation to include the collection and consideration of:

(1) reports regarding the person's medical, psychological, educational, vocational, employment, economic, and social condition and history;
(2) official reports of the person's history of criminality;
(3) reports of earlier parole or probation experiences;
(4) reports concerning the person's present commitment that are relevant to the parole release determination;
(5) any relevant information submitted by or on behalf of the person being considered; and
(6) such other relevant information concerning the person as may be reasonably available.

(c) Unless the victim has requested in writing not to be notified, the department shall notify a victim of a felony (or the next of kin of the victim if the felony resulted in the death of the victim) or any witness involved in the prosecution of an offender imprisoned for the commission of a felony when the offender is:

(1) to be discharged from imprisonment;
(2) to be released on parole under IC 35-50-6-1;
(3) to have a parole release hearing under this chapter;
(4) to have a parole violation hearing;
(5) an escaped committed offender; or
(6) to be released from departmental custody under any temporary release program administered by the department, including the following:

(A) Placement on minimum security assignment to a program authorized by IC 11-10-1-3 or IC 35-38-3-6 and requiring periodic reporting to a designated official, including a regulated community assignment program.

(B) Assignment to a minimum security work release program.

(d) The department shall make the notification required under subsection (c):

(1) at least forty (40) days before a discharge, release, or hearing occurs; and
(2) not later than twenty-four (24) hours after the escape of a committed offender.

The department shall supply the information to a victim (or next of kin of a victim in the appropriate case) and a witness at the address supplied to the department by the victim (or next of kin) or witness. A victim (or next of kin) is responsible for supplying the department with any change of address or telephone number of the victim (or next of kin).

(e) The probation officer conducting the presentence investigation shall inform the victim and witness described in subsection (c), at the time of the interview with the victim or witness, of the right of the victim or witness to receive notification from the department under subsection (c). The probation department for the sentencing court shall forward the most recent list of the addresses or telephone numbers, or both, of victims to the department of correction. The probation department shall supply the department with the information required by this section as soon as possible but not later than five (5) days from the receipt of the information from the victim. A victim (or next of kin) is responsible for supplying the department with the correct address and telephone number of the victim (or next of kin).

(f) Notwithstanding IC 11-8-5-2 and IC 4-1-6, an inmate may not have access to the name and address of a victim and a witness. Upon the filing of a motion by any person requesting or objecting to the release of victim information, witness information, or both that is retained by the department, the court shall review the information that is the subject of the motion in camera before ruling on the motion.

(g) The notice required under subsection (c) must specify whether the prisoner is being discharged, is being released on parole, is being released on lifetime parole, is having a parole release hearing, is
having a parole violation hearing, or has escaped. The notice must contain the following information:

1. The name of the prisoner.
2. The date of the offense.
3. The date of the conviction.
4. The felony of which the prisoner was convicted.
5. The sentence imposed.
6. The amount of time served.
7. The date and location of the interview (if applicable).

(b) The parole board shall adopt rules under IC 4-22-2 and make available to offenders the criteria considered in making parole release determinations. The criteria must include the:

1. nature and circumstances of the crime for which the offender is committed;
2. offender's prior criminal record;
3. offender's conduct and attitude during the commitment; and
4. offender's parole plan.

(i) The hearing prescribed by this section may be conducted in an informal manner without regard to rules of evidence. In connection with the hearing, however:

1. reasonable, advance written notice, including the date, time, and place of the hearing shall be provided to the person being considered;
2. the person being considered shall be given access, in accord with IC 11-8-5, to records and reports considered by the parole board in making its parole release decision;
3. the person being considered may appear, speak in the person's own behalf, and present documentary evidence;
4. irrelevant, immaterial, or unduly repetitious evidence shall be excluded; and
5. a record of the proceeding, to include the results of the parole board's investigation, notice of the hearing, and evidence adduced at the hearing, shall be made and preserved.

(j) If parole is denied, the parole board shall give the person written notice of the denial and the reasons for the denial. The parole board may not parole a person if it determines that there is substantial reason to believe that the person:

1. will engage in further specified criminal activity; or
2. will not conform to appropriate specified conditions of parole.

(k) If parole is denied, the parole board shall conduct another parole release hearing not earlier than five (5) years after the date of the hearing at which parole was denied. However, the board may conduct a hearing earlier than five (5) years after denial of parole if the board:

1. finds that special circumstances exist for the holding of a hearing; and
2. gives reasonable notice to the person being considered for parole.

(l) The parole board may parole a person who is outside Indiana on a record made by the appropriate authorities of the jurisdiction in which that person is imprisoned.

(m) If the board is considering the release on parole of an offender who is serving a sentence of life in prison, a determinate term of imprisonment of at least ten (10) years, or an indeterminate term of imprisonment with a minimum term of at least ten (10) years, in addition to the investigation required under subsection (b), the board shall order and consider a community investigation, which must include an investigation and report that substantially reflects the attitudes and opinions of:

1. the community in which the crime committed by the offender occurred;
2. law enforcement officers who have jurisdiction in the community in which the crime occurred;
3. the victim of the crime committed by the offender, or if the victim is deceased or incompetent for any reason, the victim's relatives or friends; and
4. friends or relatives of the offender.

If the board considers for release on parole an offender who was previously released on parole and whose parole was revoked under section 10 of this chapter, the board may use a community investigation prepared for an earlier parole hearing to comply with this subsection. However, the board shall accept and consider any supplements or amendments to any previous statements from the victim or the victim's relatives or friends.

(n) As used in this section, "victim" means a person who has suffered direct harm as a result of a violent crime (as defined in IC 5-2-6-1.8).

SECTION 15. IC 11-13-3-4, AS AMENDED BY SEA 246-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

1. retained by the parolee;
2. forwarded to any person charged with the parolee's supervision; and
3. placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and has ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

1. consider:
   (A) the residence of the parolee prior to the parolee's incarceration; and
   (B) the parolee's place of employment; and
2. assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

1. periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and
2. have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

1. may require a parolee who is a sex and violent offender (as defined in IC 5-2-12-4 IC 11-8-8-5) to:
   (A) participate in a treatment program for sex offenders approved by the parole board; and
   (B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:
       (i) receives the parole board's approval; or
       (ii) successfully completes the treatment program referred to in clause (A); and
2. shall:
   (A) require a parolee who is an a sex offender (as defined in IC 5-2-12-4 IC 11-8-8-5) to register with a sheriff (or the police chief of a consolidated city) local law enforcement authority under IC 5-2-12-5 IC 11-8-8;
   (B) prohibit the sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the sex offender obtains written approval from the parole board; and
   (C) prohibit a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex
offense unless the sex offender obtains a waiver under IC 35-38-2-2.5; and
(D) prohibit a parolee from owning, operating, managing, being employed by, or volunteering at any
attraction designed to be primarily enjoyed by children
less than sixteen (16) years of age.
The parole board may not grant a sexually violent predator (as
defined in IC 35-38-1-7.5) a waiver under subdivision (2)(B)
(2)(C). If the parole board allows the sex offender to reside within
one thousand (1,000) feet of school property under subdivision
(2)(B), the parole board shall notify each school within
one thousand (1,000) feet of the sex offender's residence of the order.
(h) The address of the victim of a parolee who is a sex offender
convicted of a sex offense (as defined in IC 35-38-2-2.5) is
confidential, even if the sex offender obtains a waiver under
IC 35-38-2-2.5.
(i) As a condition of parole, the parole board:
(1) shall require a parolee who is a sexually violent predator
under IC 35-38-1-7.5; and
(2) may require a parolee who is a sex offender (as defined
in IC 11-8-8.5);
to wear a monitoring device (as described in IC 35-38-2-5.3) that
can transmit information twenty-four (24) hours each day
regarding a person's precise location.
(j) As a condition of parole, the parole board may prohibit, in
accordance with IC 35-38-2-2.6, a parolee who has been
convicted of stalking from residing within one thousand (1,000)
feet of the residence of the victim of the stalking for a period that
does not exceed five (5) years.
SECTION 16. IC 11-13-6-5.5 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5.5. (a) This section
shall not be construed to limit victim's victims' rights granted by
IC 35-40 or any other law.
(b) As used in this section, "sex offense" refers to a sex offense
described in IC 16-37-2-2.1; IC 11-8-8.5.
(c) As used in this section, "victim" means a person who has
suffered direct harm as a result of a delinquent act that would be a sex
offense if the delinquent offender were an adult.
(d) Unless a victim has requested in writing not to be notified, the
department shall notify the victim involved in the adjudication of a
delinquent offender committed to the department for a sex offense of
the delinquent offender's:
(1) discharge from the department of correction;
(2) release from the department of correction under any
temporary release program administered by the department;
(3) release on parole;
(4) parole release hearing under this chapter;
(5) parole violation hearing under this chapter; or
(6) escape from commitment to the department of correction.
(e) The department shall make the notification required under
subsection (d):
(1) at least forty (40) days before a discharge, release, or
hearing occurs; and
(2) not later than twenty-four (24) hours after the escape of a
delinquent offender from commitment to the department of
correction.
The department shall supply the information to a victim at the address
supplied to the department by the victim. A victim is responsible for
supplying the department with any change of address or telephone
number of the victim.
(f) The probation officer or caseworker preparing the
predispositional report under IC 31-37-17 shall inform the victim
before the predispositional report is prepared of the right of the victim
to receive notification from the department under subsection (d). The
probation department or county office of family and children shall
forward the most recent list of the addresses or telephone numbers, or
both, of victims to the department. The probation department or
county office of family and children shall supply the department with
the information required by this section as soon as possible but not
later than five (5) days after the receipt of the information. A victim is
responsible for supplying the department with the correct address
and telephone number of the victim.
(g) Notwithstanding IC 11-8-5.2 and IC 4-1-6, a delinquent
offender may not have access to the name and address of a victim.
Upon the filing of a motion by a person requesting or objecting to the
release of victim information or representative information, or both,
that is retained by the department, the court shall review in camera the
information that is the subject of the motion before ruling on the
motion.
(h) The notice required under subsection (d) must specify whether
the delinquent offender is being discharged, is being released under a
temporary release program administered by the department, is being
released on parole, is having a parole release hearing, is having a
parole violation hearing, or has escaped. The notice must contain the
following information:
(1) The name of the delinquent offender.
(2) The date of the delinquent act.
(3) The date of the adjudication as a delinquent offender.
(4) The delinquent act of which the delinquent offender was
adjudicated.
(5) The disposition imposed.
(6) The amount of time for which the delinquent offender was
committed to the department.
(7) The date and location of the interview (if applicable).
SECTION 17. IC 31-19-11-1, AS AMENDED BY P.L.129-2005,
SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2006]: Sec. 1. (a) Whenever the court has
heard the evidence and finds that:
(1) the adoption requested is in the best interest of the child;
(2) the petitioner or petitioners for adoption are of sufficient
ability to rear the child and furnish suitable support and
education;
(3) the report of the investigation and recommendation under
IC 31-19-8.5 has been filed;
(4) the attorney or agency arranging an adoption has filed with
the court an affidavit prepared by the state department of
health under IC 11-19-5-16 indicating whether a man has
registered with the putative father registry in accordance with IC 31-19-5;
(5) proper notice arising under subdivision (4), if notice is
necessary, of the adoption has been given;
(6) the attorney or agency has filed with the court an affidavit
prepared by the state department of health under:
(A) IC 31-19-6 indicating whether a record of a paternity
determination;
or
(B) IC 16-37-2-2(g) indicating whether a paternity affidavit
executed under IC 16-37-2-2.1;
has been filed in relation to the child;
(7) proper consent, if consent is necessary, to the adoption has
been given;
(8) the petitioner for adoption is not prohibited from adopting
the child as the result of an inappropriate criminal history
described in subsection (c) or (d); and
(9) the person, licensed child placing agency, or county office
of family and children that has placed the child for adoption has
provided the documents and other information required under
IC 31-19-17 to the prospective adoptive parents;
the court shall grant the petition for adoption and enter an adoption
decree.
(b) A court may not grant an adoption unless the department's
affidavit under IC 31-19-5-16 is filed with the court as provided under
subsection (a)(4).
(c) A conviction of a felony or a misdemeanor related to the health
and safety of a child by a petitioner for adoption is a permissible basis
for the court to deny the petition for adoption. In addition, the court
may not grant an adoption if a petition for adoption has been
convicted of any of the felonies described as follows:
(1) Murder (IC 35-42-1-1).
(2) Causing suicide (IC 35-42-1-2).
(3) Assisting suicide (IC 35-42-1-2.5).
(4) Voluntary manslaughter (IC 35-42-1-3).
(5) Reckless homicide (IC 35-42-1-5).
(6) Battery as a felony (IC 35-42-2-1).
(7) Aggravated battery (IC 35-42-2-1.5).
(8) Kidnapping (IC 35-42-3-2).

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(9) Criminal confinement (IC 35-42-3-3).
(10) A felony sex offense under IC 35-42-4.
(11) Carjacking (IC 35-42-5-2).
(12) Arson (IC 35-43-1-1).
(13) Incest (IC 35-46-1-3).
(14) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).
(15) Child selling (IC 35-46-1-4(d)).
(16) A felony involving a weapon under IC 35-47 or IC 35-47-5.
(17) A felony relating to controlled substances under IC 35-48-4.
(18) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.
(19) A felony that is substantially equivalent to a felony listed in subdivisions (1) through (18) for which the conviction was entered in another state.

However, the court is not prohibited from granting an adoption based upon a felony conviction under subdivision (6), (11), (12), (16), or (17), or its equivalent under subdivision (19), if the offense was not committed within the immediately preceding five (5) year period.

(d) A court may not grant an adoption if the petitioner is an offender (as defined in IC 5-2-12-4) (IC 11-8-8-5).

SECTION 18. IC 31-30-1-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.5. A juvenile court may not appoint a person to serve as the guardian or custodian of a child if the person is:

(1) a sexually violent predator (as described in IC 35-38-1-7.5); or
(2) a person who was at least eighteen (18) years of age at the time of the offense and who committed child molesting (IC 35-42-4-3) or sexual misconduct with a minor (IC 35-42-4-9) against a child less than sixteen (16) years of age:

(A) by using or threatening the use of deadly force;
(B) while armed with a deadly weapon; or
(C) that resulted in serious bodily injury.

SECTION 19. IC 31-37-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) This section applies if a child is a delinquent child under IC 31-37-1.
(b) The juvenile court may, in addition to an order under section 6 of this chapter, enter at least one (1) of the following dispositional decrees:

(1) Order supervision of the child by:
(A) the probation department; or
(B) the county office of family and children.

As a condition of probation under this subdivision, the juvenile court shall after a determination under IC 5-2-12-4 IC 11-8-8-5 require a child who is adjudicated a delinquent child for an act that would be an offense described in IC 5-2-12-4 IC 11-8-8-5 if committed by an adult to register with the sheriff (for the police chief of a consolidated city) local law enforcement authority under IC 5-2-12-2 IC 11-8-8.

(2) Order the child to receive outpatient treatment:
(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or
(B) from an individual practitioner.

(3) Order the child to surrender the child's driver's license to the court for a specified period of time.
(4) Order the child to pay restitution if the victim provides reasonable evidence of the victim's loss, which the child may challenge at the dispositional hearing.

(5) Partially or completely emancipate the child under section 27 of this chapter.
(6) Order the child to attend an alcohol and drug services program established under IC 12-23-14.
(7) Order the child to perform community restitution or service for a specified period of time.
(8) Order wardship of the child as provided in section 9 of this chapter.

SECTION 20. IC 31-37-19-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) After a juvenile court makes a determination under IC 5-2-12-4 IC 11-8-8-5, the juvenile court may, in addition to an order under section 6 of this chapter, and if the child:

(1) is at least thirteen (13) years of age and less than sixteen (16) years of age; and
(2) committed an act that, if committed by an adult, would be:
(A) murder (IC 35-42-1-1);
(B) kidnapping (IC 35-42-3-2);
(C) rape (IC 35-42-4-1);
(D) criminal deviate conduct (IC 35-42-4-2); or
(E) robbery (IC 35-42-5-1) if the robbery was committed while armed with a deadly weapon and if the robbery resulted in bodily injury or serious bodily injury;

order wardship of the child to the department of correction for a fixed period that is not longer than the date the child becomes eighteen (18) years of age, subject to IC 11-10-2-10.

(c) Notwithstanding IC 11-10-2-5, the department of correction may not reduce the period ordered under this section (or IC 31-6-4-15.9(b)(8) before its repeal).

SECTION 21. IC 35-38-1-7.5, AS AMENDED BY SEA 246-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7.5. (a) As used in this section, "sexual violence" means "sexual violence" means "sexual violence"

(b) A person who:

(1) being at least eighteen (18) years of age, commits an offense described in IC 5-2-12-4:

(A) by using or threatening the use of deadly force;
(B) while armed with a deadly weapon; or
(C) that results in serious bodily injury to a person other than a defendant;

(2) is at least eighteen (18) years of age and commits an offense described in IC 5-2-12-4 against a child less than twelve (12) years of age; or
(3) commits an offense described in IC 5-2-12-4 while having a previous unrelated conviction for an offense described in IC 5-2-12-4 for which the person is required to register as an offender under IC 5-2-12:

(A) IC 35-42-4-1;
(B) IC 35-42-4-2;
(C) IC 35-42-4-3 as a Class A or Class B felony;
(D) IC 35-42-4-5(a)(1);
(E) IC 35-42-4-5(a)(2);
(F) IC 35-42-4-5(a)(3);
(G) IC 35-42-4-5(b)(1) as a Class A or Class B felony;
(H) IC 35-42-4-5(b)(2); or
(I) IC 35-42-4-5(b)(3) as a Class A or Class B felony; or

(2) commits an offense described in IC 11-8-8-5 while having a previous unrelated conviction for an offense described in IC 11-8-8-5 for which the person is required to register as an offender under IC 11-8-8;

is a sexually violent predator.

(c) This section applies whenever a court sentences a person for a sex offense listed in IC 5-2-12-4 IC 11-8-8-5 for which the person is required to register with the sheriff (for the police chief of a consolidated city) local law enforcement authority under IC 5-2-12-4 IC 11-8-8.

(d) At the sentencing hearing, the court shall determine whether the person is a sexually violent predator under subsection (b).
(e) If the court does not find the person to be a sexually violent predator under subsection (b), the court shall consult with a board of experts consisting of two (2) board certified psychologists or psychiatrists who have expertise in criminal behavioral disorders to determine if the person is a sexually violent predator under subsection (a).

(f) If the court finds that a person is a sexually violent predator:

(1) the person is required to register with the sheriff (for the
the court that the person should no longer be considered a sexually violent predator. The person may file a petition under this subsection not earlier than ten (10) years after:

(1) the sentencing court makes its finding under subsection (e); or

(2) a person found to be a sexually violent predator under subsection (b) is released from incarceration.

A person may file a petition under this subsection not more than one (1) time per year. If a court finds that the person should no longer be considered a sexually violent predator, the court shall send notice to the Indiana criminal justice institute department of correction that the person is no longer considered a sexually violent predator. Notwithstanding any other law, a condition imposed on a person due to the person's status as a sexually violent predator, including lifetime parole or GPS monitoring, does not apply to a person no longer considered a sexually violent predator.

SECTION 22. IC 35-38-1-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 27. (a) If a court imposes a sentence that does not involve a commitment to the department of correction, the court shall require a person:

(1) convicted of an offense described in IC 10-13-6-10; and

(2) who has not previously provided a DNA sample in accordance with IC 10-13-6;

to provide a DNA sample as a condition of the sentence.

(b) If a person described in subsection (a) is confined at the time of sentencing, the court shall order the person to provide a DNA sample immediately after sentencing.

(c) If a person described in subsection (a) is not confined at the time of sentencing, the agency supervising the person after sentencing shall establish the date, time, and location for the person to provide a DNA sample. However, the supervising agency must require that the DNA sample be provided not more than seven (7) days after sentencing. A supervising agency's failure to obtain a DNA sample not more than seven (7) days after sentencing does not permit a person required to provide a DNA sample to challenge the requirement that the person provide a DNA sample at a later date.

(d) A person's failure to provide a DNA sample is grounds for revocation of the person's probation, community corrections placement, or other conditional release.

SECTION 23. IC 35-38-2-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.2. As a condition of probation for an a sex offender (as defined in IC 5-2-4-4 IC 11-8-8-5), the court shall:

(1) require the sex offender to register with the sheriff of a consolidated city local law enforcement authority as provided in IC 5-2-12-13; IC 11-8-8; and

(2) prohibit the sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of probation, unless the sex offender obtains written approval from the court.

If the court allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2), the court shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

SECTION 24. IC 35-38-2-2.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.3. (a) As a condition of probation, the court may require a person to do a combination of the following:

(1) Work faithfully at suitable employment or faithfully pursue a course of study or vocational training that will equip the person for suitable employment.

(2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.

(3) Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.

(4) Support the person's dependents and meet other family responsibilities.

(5) Make restitution or reparation to the victim of the crime for damage or injury that was sustained by the victim. When restitution or reparation is a condition of probation, the court shall fix the amount, which may not exceed an amount the person can or will be able to pay, and shall fix the manner of performance.

(6) Execute a repayment agreement with the appropriate governmental entity to repay the full amount of public relief or assistance wrongfully received, and make repayments according to a repayment schedule set out in the agreement.

(7) Pay a fine authorized by IC 35-50.

(8) Refrain from possessing a firearm or other deadly weapon unless granted written permission by the court or the person's probation officer.

(9) Report to a probation officer at reasonable times as directed by the court or the probation officer.

(10) Permit the person's probation officer to visit the person at reasonable times at the person's home or elsewhere.

(11) Remain within the jurisdiction of the court, unless granted permission to leave by the court or by the person's probation officer.

(12) Answer all reasonable inquiries by the court or the person's probation officer and promptly notify the court or probation officer of any change in address or employment.

(13) Perform uncompensated work that benefits the community.

(14) Satisfy other conditions reasonably related to the person's rehabilitation.

(15) Undergo home detention under IC 35-38-2.5.

(16) Undergo a laboratory test or series of tests approved by the state department of health to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV), if:

(A) the person had been convicted of a sex crime listed in IC 35-38-1-7.1(e) and the crime created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV) as described in IC 35-38-1-7.1(b)(8); or

(B) the person had been convicted of an offense related to a controlled substance listed in IC 35-38-1-7.1(f) and the offense involved the conditions described in IC 35-38-1-7.1(b)(9)(A).

(17) Refrain from any direct or indirect contact with an individual.

(18) Execute a repayment agreement with the appropriate governmental entity or with a person for reasonable costs incurred because of the taking, detention, or return of a missing child (as defined in IC 10-13-5-4).

(19) Periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of chemical tests as specified by the court to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9). The person on probation is responsible for any charges resulting from a test and shall have the results of any test under this subdivision reported to the person's probation officer by the laboratory.

(20) If the person was confined in a penal facility, execute a reimbursement plan as directed by the court and make repayments under the plan to the authority that operates the penal facility for all or part of the costs of the person's confinement in the penal facility. The court shall fix an amount that:

(A) may not exceed an amount the person can or will be able to pay;

(B) does not harm the person's ability to reasonably be self-supporting or to reasonably support any dependent of the person; and

(C) takes into consideration and gives priority to any other restitution, reparation, or fine the person is required to pay under this section.

(21) Refrain from owning, harboring, or training an animal.

(b) When a person is placed on probation, the person shall be
given a written statement specifying:

(1) the conditions of probation; and
(2) that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:

(A) One (1) year after the termination of probation.
(B) Forty-five (45) days after the date receives notice of the violation.

(c) As a condition of probation, the court may require that the person serve a term of imprisonment in an appropriate facility at the time or intervals (consecutive or intermittent) within the period of probation the court determines.

(d) Intermittent service may be required only for a term of not more than sixty (60) days and must be served in the county or local penal facility. The intermittent term is computed on the basis of the actual days spent in confinement and shall be completed within one (1) year. A person does not earn credit time while serving an intermittent term of imprisonment under this subsection. When the court orders intermittent service, the court shall state:

(1) the term of imprisonment;
(2) the days or parts of days during which a person is to be confined; and
(3) the conditions.

(e) Supervision of a person may be transferred from the court that placed the person on probation to a court of another jurisdiction, with the concurrence of both courts. Retransfers of supervision may occur in the same manner. This subsection does not apply to transfers made under IC 11-13-4 or IC 11-13-5.

(f) When a court imposes a condition of probation described in subsection (a)(17):

(1) the clerk of the court shall comply with IC 5-2-9; and
(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

(g) As a condition of probation, a court shall require a person:

(1) convicted of an offense described in IC 10-13-6-10;
(2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and
(3) whose sentence does not involve a commitment to the department of correction;

to provide a DNA sample as a condition of probation.

SECTION 25. IC 35-38-2-2.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.4. As a condition of probation, the court may require an sex offender (as defined in IC 5-2-12-4) IC 11-8-8-5) to:

(1) participate in a treatment program for sex offenders approved by the court; and
(2) avoid contact with any person who is less than sixteen (16) years of age unless the probationer:

(A) receives the court's approval; or
(B) successfully completes the treatment program referred to in subdivision (1).

SECTION 26. IC 35-38-2-2.5, AS AMENDED BY SEA 246-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.5. (a) As used in this section, "offender" means an individual convicted of a sex offense.

(b) As used in this section, "sex offense" means any of the following:

(1) Rape (IC 35-42-4-1).
(2) Criminal deviate conduct (IC 35-42-4-2).
(3) Child molesting (IC 35-42-4-3).
(4) Child exploitation (IC 35-42-4-4(b)).
(5) Vicarious sexual gratification (IC 35-42-4-5).
(6) Child solicitation (IC 35-42-4-6).
(7) Child seduction (IC 35-42-4-7).
(8) Sexual battery (IC 35-42-4-8).
(9) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
(10) Incest (IC 35-46-1-3).

(c) A condition of remaining on probation or parole after conviction for a sex offense is that the offender not reside within one (1) mile of the residence of the victim of the offender's sex offense.

(d) An offender:

(1) who will be placed on probation shall provide the sentencing court and the probation department with the address where the offender intends to reside during the period of probation:

(A) at the time of sentencing if the offender will be placed on probation without first being incarcerated; or
(B) before the offender's release from incarceration if the offender will be placed on probation after completing a term of incarceration; or
(2) who will be placed on parole shall provide the parole board with the address where the offender intends to reside during the period of parole.

(e) An offender, while on probation or parole, may not establish a new residence within one (1) mile of the residence of the victim of the offender's sex offense unless the offender first obtains a waiver from the:

(1) court, if the offender is placed on probation; or
(2) parole board, if the offender is placed on parole; for the change of address under subsection (f).

(f) The court or parole board may waive the requirement set forth in subsection (e) only if the court or parole board, at a hearing at which the offender is present and of which the prosecuting attorney has been notified, determines that:

(1) the offender has successfully completed a sex offender treatment program during the period of probation or parole;
(2) the offender is in compliance with all terms of the offender's probation or parole; and
(3) good cause exists to allow the offender to reside within one (1) mile of the residence of the victim of the offender's sex offense.

However, the court or parole board may not grant a waiver under this subsection if the offender is a sexually violent predator under IC 35-38-1-7.5.

(g) If the court or parole board grants a waiver under subsection (f), the court or parole board shall state in the written statement of reasons for granting the waiver.

(h) The address of the victim of the offender's sex offense is confidential even if the court or parole board grants a waiver under subsection (f).

SECTI ON 27. IC 35-38-2-2.6 IS ADDED TO THE INDIAN A CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.6. (a) As a condition of remaining on probation or parole after a conviction for stalking (IC 35-45-10-5), a court may prohibit a person from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.

(b) A person:

(1) who will be placed on probation shall provide the sentencing court and the probation department with the address where the person intends to reside during the period of probation:

(A) at the time of sentencing if the person will be placed on probation without first being incarcerated; or
(B) before the person's release from incarceration if the person will be placed on probation after completing a term of incarceration; or
(2) who will be placed on parole shall provide the parole board with the address where the person intends to reside during the period of parole.

(c) A person, while on probation or parole, may not reside within one thousand (1,000) feet of the residence of the victim of the stalking unless the person first obtains a waiver under subsection (d) from the:

(1) court, if the person is placed on probation; or
(2) parole board, if the person is placed on parole.

(d) The court or parole board may waive the requirement set forth in subsection (c) only if the court or parole board, at a hearing at which the person is present and of which the prosecuting attorney has been notified, determines that:

(1) the person is in compliance with all terms of the person's probation or parole; and
(2) good cause exists to allow the person to reside within one thousand (1,000) feet of the residence of the victim of the
stalking.
(e) If the court or parole board grants a waiver under subsection (d), the court or parole board shall state in writing the reasons for granting the waiver. The court's written statement of its reasons shall be incorporated into the record.
(f) The address of the victim of the stalking is confidential even if the court or parole board grants a waiver under subsection (d).

SECTION 28. IC 35-38-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. An order for home detention of an offender under section 5 of this chapter must include the following:

(1) A requirement that the offender be confined to the offender's home at all times except when the offender is:
(A) working at employment approved by the court or traveling to or from approved employment;
(B) unemployed and seeking employment approved for the offender by the court;
(C) undergoing medical, psychiatric, mental health treatment, counseling, or other treatment programs approved for the offender by the court;
(D) attending an educational institution or a program approved for the offender by the court;
(E) attending a regularly scheduled religious service at a place of worship; or
(F) participating in a community work release or community restitution or service program approved for the offender by the court.
(2) Notice to the offender that violation of the order for home detention may subject the offender to prosecution for the crime of escape under IC 35-44-3-5.
(3) A requirement that the offender abide by a schedule prepared by the probation department, or by a community corrections program ordered to provide supervision of the offender's home detention, specifically setting forth the times when the offender may be absent from the offender's home and the locations the offender is allowed to be during the scheduled absences.
(4) A requirement that the offender is not to commit another crime during the period of home detention ordered by the court.
(5) A requirement that the offender obtain approval from the probation department or from a community corrections program ordered to provide supervision of the offender's home detention before the offender changes residence or the schedule described in subdivision (3).
(6) A requirement that the offender maintain:
(A) a working telephone in the offender's home; and
(B) if ordered by the court, a monitoring device in the offender's home or on the offender's person, or both.
(7) A requirement that the offender pay a home detention fee set by the court in addition to the probation user's fee required under IC 35-38-2-1 or IC 31-40. However, the fee set under this subdivision may not exceed the maximum fee specified by the department of correction under IC 11-12-2-12.
(8) A requirement that the offender abide by other conditions of probation set by the court under IC 35-38-2-2.3.
(9) A requirement that an offender:
(1) convicted of an offense described in IC 10-13-6-10;
(2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and
(3) whose sentence does not involve a commitment to the department of correction;
provide a DNA sample.

SECTION 29. IC 35-38-2-6.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The court may, at the time of sentencing, suspend the sentence and order a person to be placed in a community corrections program as an alternative to commitment to the department of correction. The court may impose reasonable terms on the placement. A court shall require a person:
(1) convicted of an offense described in IC 10-13-6-10;
(2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and
(3) whose sentence does not involve a commitment to the department of correction;

(b) Placement in a community corrections program under this chapter is subject to the availability of residential beds or home detention units in a community corrections program.
(c) A person placed under this chapter is responsible for the person's own medical care while in the placement program.
(d) Placement under this chapter is subject to the community corrections program receiving a written presentence report or memorandum from a county probation agency.

SECTION 30. IC 35-41-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as otherwise provided in this section, a prosecution for an offense is barred unless it is commenced:
(1) within five (5) years after the commission of the offense, in the case of a Class B, Class C, or Class D felony; or
(2) within two (2) years after the commission of the offense, in the case of a misdemeanor.
(b) A prosecution for a Class B or Class C felony that would otherwise be barred under this section may be commenced within one (1) year after the earlier of the date on which the state:
(1) first discovers the identity of evidence sufficient to charge the offender with the offense through DNA (deoxyribonucleic acid) evidence analysis; or
(2) could have discovered the identity of evidence sufficient to charge the offender with the offense through DNA (deoxyribonucleic acid) evidence analysis by the exercise of due diligence.

However, for a Class B or Class C felony in which the state first discovered the identity of an offender with DNA (deoxyribonucleic acid) evidence after the time otherwise allowed for prosecution and before July 1, 2001, the one (1) year period provided in this subsection is extended to July 1, 2002.
(c) A prosecution for a Class A felony may be commenced at any time.
(d) A prosecution for murder may be commenced:
(1) at any time; and
(2) regardless of the amount of time that passes between:
(A) the date a person allegedly commits the elements of murder; and
(B) the date the alleged victim of the murder dies.
(e) A prosecution for the following offenses is barred unless commenced before the date that the alleged victim of the offense reaches thirty-one (31) years of age:
(1) IC 35-42-4-3(a) (Child molesting);
(2) IC 35-42-4-5 (Victimless sexual gratification);
(3) IC 35-42-4-6 (Child solicitation);
(4) IC 35-42-4-7 (Child seduction);
(5) IC 35-46-1-3 (Incest).
(f) A prosecution for forgery of an instrument for payment of money, or for the uttering of a forged instrument, under IC 35-43-5-2, is barred unless it is commenced within five (5) years after the maturity of the instrument.
(g) If a complaint, indictment, or information is dismissed because of an error, defect, insufficiency, or irregularity, a new prosecution may be commenced within ninety (90) days after the dismissal even if the period of limitation has expired at the time of dismissal, or will expire within ninety (90) days after the dismissal.
(h) The period within which a prosecution must be commenced does not include any period in which:
(1) the accused person is not usually and publicly resident in Indiana or so conceals himself or herself that process cannot be served on him;
(2) the accused person conceals evidence of the offense, and evidence sufficient to charge him the person with that offense is unknown to the prosecuting authority and could not have been discovered by that authority by exercise of due diligence; or
(3) the accused person is a person elected or appointed to office under statute or constitution, if the offense charged is theft or conversion of public funds or bribery while in public office.
(i) For purposes of tolling the period of limitation only, a prosecution is considered commenced on the earliest of these dates:
(1) The date of filing of an indictment, information, or
(2) The date of issuance of a valid arrest warrant.
(3) The date of arrest of the accused person by a law enforcement officer without a warrant, if the officer has authority to make the arrest.

(j) A prosecution is considered timely commenced for any offense to which the defendant enters a plea of guilty, notwithstanding that the period of limitation has expired.

SECTION 31. IC 35-42-4-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) As used in this section, "sexually violent predator" means a person who is a sexually violent predator under IC 35-38-1-7.5.

(b) A sexually violent predator who knowingly or intentionally works for compensation or as a volunteer:

(1) on school property;
(2) at a youth program center; or
(3) in a public park;

commits unlawful neglect toward children by a sexual predator, a Class D felony. However, the offense is a Class C felony if the person has a prior unrelated conviction based on the person's failure to comply with any requirement imposed on an offender under this chapter.

SECTION 32. IC 35-42-4-11, AS ADDED BY SEA 246-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) As used in this section, "offender against children" means a person required to register as an offender or was required to register as a sex offender under IC 5-2-6-3 contained data relating to a person required to register as a sex offender under IC 11-8-8 and the person is a sex offender or was required to register as a sex offender.

(2) The date of issuance of a valid arrest warrant.

(b) As used in this section, "reside" means to spend more than two nights in a residence in any thirty (30) day period.

(c) An offender against children who knowingly or intentionally:

(1) resides within one thousand (1,000) feet of:
   (A) school property;
   (B) a youth program center; or
   (C) a public park; or

(2) establishes a residence within one (1) mile of the residence of the victim of the offender's sex offense;

commits sex offender residency offense, a Class D felony.

SECTION 33. IC 35-43-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) A person who:

(1) recklessly, knowingly, or intentionally damages or defaces property of another person without the other person's consent; or

(2) knowingly or intentionally causes another to suffer pecuniary loss by deception or by an expression of intention to injure another person or to damage the property or to impair the rights of another person;

commits criminal mischief, a Class B misdemeanor. However, the offense is:

(A) a Class A misdemeanor if:
   (i) the pecuniary loss is at least two thousand five hundred dollars ($2,500) but less than two thousand five hundred dollars ($2,500);
   (ii) the property damaged was a moving motor vehicle;
   (iii) the property damaged or defaced was a copy of the sex and violent offender directory (IC 5-2-6-3) contained data relating to a person required to register as a sex offender under IC 11-8-8 and the person is not a sex offender or was not required to register as a sex offender;
   (iv) the property damaged was a locomotive, a railroad car, a train, or equipment of a railroad company being operated on a railroad right-of-way;
   (v) the property damaged was a part of any railroad signal system, train control system, centralized dispatching system, or highway railroad grade crossing warning signal on a railroad right-of-way owned, leased, or operated by a railroad company;
   (vi) the property damaged was any rail, switch, roadbed, viaduct, bridge, trestle, culvert, or embankment on a right-of-way owned, leased, or operated by a railroad company;
   (vii) the property damage or defacement was caused by paint or other markings; and

(B) a Class D felony if:
   (i) the pecuniary loss is at least two thousand five hundred dollars ($2,500);
   (ii) the damage causes a substantial interruption or impairment of utility service rendered to the public;
   (iii) the damage is to a public record;
   (iv) the property damaged or defaced was a copy of the sex and violent offender directory (IC 5-2-6-3) contained data relating to a person required to register as a sex offender under IC 11-8-8 and the person is a sex offender or was required to register as a sex offender;
   (v) the damage causes substantial interruption or impairment of work conducted in a scientific research facility;
   (vi) the damage is to a law enforcement animal (as defined in IC 35-46-3-4.5); or
   (vii) the damage causes substantial interruption or impairment of work conducted in a food processing facility.

(b) A person who recklessly, knowingly, or intentionally damages:

(1) a structure used for religious worship;
(2) a school or community center;
(3) the grounds:
   (A) adjacent to; and
   (B) owned or rented in common with;

(a) a Class A  misdemeanor if:
   (i) the pecuniary loss is at least two thousand five hundred dollars ($2,500) but less than two thousand five hundred dollars ($2,500), and a Class C felony if the pecuniary loss is at least two thousand five hundred dollars ($2,500).

(c) If a person is convicted of an offense under this section that involves the use of graffiti, the court may, in addition to any other penalty, order that the person's operator's license be suspended or invalidated by the bureau of motor vehicles for not more than one (1) year.

(d) The court may rescind an order for suspension or invalidation under subsection (c) and allow the person to receive a license or permit before the period of suspension or invalidation ends if the court determines that:

(1) the person has removed or painted over the graffiti or has made other suitable restitution; and
(2) the person owns the property damaged or defaced by the criminal mischief or institutional criminal mischief is satisfied with the removal, painting, or other restitution performed by the person.

SECTION 34. IC 35-44-3-9.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9.3. (a) As used in this section, "contraband" means the following:

(1) Alcohol.
(2) A cigarette or tobacco product.
(3) A controlled substance.
(4) An item that may be used as a weapon.

(b) As used in this section, "inmate outside a facility" means a person who is incarcerated in a penal facility or detained in a
juvenile facility on a full-time basis as the result of a conviction or a juvenile adjudication but who has been or is being transported to another location to participate in or prepare for a judicial proceeding. The term does not include the following:

(1) An adult or juvenile pretrial detainee.
(2) A person serving an intermittent term of imprisonment or detention.
(3) A person serving a term of imprisonment or detention as:
   (A) a condition of probation;
   (B) a condition of a community corrections program;
   (C) part of a community transition program;
   (D) part of a reentry court program;
   (E) part of a work release program; or
   (F) part of a community based program that is similar to a program described in clauses (A) through (E).
(4) A person who has escaped from incarceration or walked away from secure detention.
(5) A person on temporary leave (as described in IC 11-10-11) or temporary release (as described in IC 11-10-10).
(c) A person who, with the intent of providing contraband to an inmate outside a facility:
   (1) delivers contraband to an inmate outside a facility; or
   (2) places contraband in a location where an inmate outside a facility could obtain the contraband;
   commits trafficking with an inmate outside a facility, a Class A misdemeanor. However, the offense is a Class D felony if the contraband is an item described in subsection (a)(3), and a Class C felony if the contraband is an item described in subsection (a)(4).

SECTION 35. IC 35-44-3-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) A person who is being supervised on lifetime parole (as described in IC 35-50-6-1) and who knowingly or intentionally violates a condition of lifetime parole that involves direct or indirect contact with a child less than sixteen (16) years of age or with the victim of a sex crime described in IC 11-8-8-5 that was committed by the person commits a Class D felony if, at the time of the violation:
   (1) the person’s lifetime parole has been revoked two (2) or more times; or
   (2) the person has completed the person’s sentence, including any credit time the person may have earned.
(b) The offense described in subsection (a) is a Class C felony if the person has a prior unrelated conviction under this section.

SECTION 36. IC 35-50-2-2, AS AMENDED BY P.L.213-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.
(b) With respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence, unless the court has approved placement of the offender in a forensic diversion program under IC 11-12-3.7:
   (1) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.
   (2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.
   (3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2-5 instead of the minimum sentence specified for the crime under this chapter.
   (4) The felony committed was:
      (A) murder (IC 35-42-1-1);
      (B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;
      (C) sexual battery (IC 35-42-4-8) with a deadly weapon;
      (D) kidnapping (IC 35-42-3-2);
      (E) confinement (IC 35-42-3-3) with a deadly weapon;
      (F) rape (IC 35-42-4-1) as a Class A felony;
      (G) criminal deviate conduct (IC 35-42-4-2) as a Class A felony;
      (H) child molesting (IC 35-42-4-3) as a Class A or Class B felony;
      (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;
      (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;
      (K) burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;
      (L) resisting law enforcement (IC 35-44-3-3) with a deadly weapon;
      (M) escape (IC 35-44-3-5) with a deadly weapon;
      (N) rioting (IC 35-45-1-2) with a deadly weapon;
      (O) dealing in cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:
         (i) school property;
         (ii) a public park;
         (iii) a family housing complex; or
         (iv) a youth program center;
      (P) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:
         (i) school property;
         (ii) a public park;
         (iii) a family housing complex; or
         (iv) a youth program center;
      (Q) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5;
      (R) an offense under IC 9-30-5-5(b) (operating a vehicle while intoxicated causing death); or
      (S) aggravated battery (IC 35-42-2-1.5).
(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.
(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon.
(e) Whenever the court suspends part of a sex offender’s (as defined in IC 5-2-12-4 IC 11-8-8-5) sentence that is suspendible under subsection (b), the court shall place the sex offender on probation under IC 35-38-2 for not more than ten (10) years.
(f) An additional term of imprisonment imposed under IC 35-50-2-11 may not be suspended.
(g) A term of imprisonment imposed under IC 35-47-10-6 or IC 35-47-10-7 may not be suspended if the commission of the offense was knowing or intentional.
(h) A term of imprisonment imposed for an offense under IC 35-48-4-6(b)(1)(B) may not be suspended.

SECTION 37. IC 35-50-2-14, AS AMENDED BY P.L.71-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS

March 13, 2006
House 929
Section 38. IC 35-50-6-1 is amended to read as follows [Effective July 1, 2006]: Sec. 1. (a) Except as provided in subsection (d) or (e), when a person imprisoned for a felony completes the person's fixed term of imprisonment, less the credit time he or she has earned with respect to that term, he or she shall be:

1. released on parole for not more than twenty-four (24) months, as determined by the parole board; or
2. discharged upon a finding by the committing court that the person was assigned to a community transition program and may be discharged without the requirement of parole; or
3. released to the committing court if his or her sentence included a period of probation. (b) Except as provided in subsection (d). This subsection does not apply to a person described in subsection (d), (e), or (f). A person released on parole remains on parole from the date of his or her release until the parole board recommences its supervision of the person on parole. (c) A person whose parole is revoked shall be imprisoned for all or part of the remainder of the person's fixed term. However, the person shall again be released on parole when the parole board completes that remainder, less the credit time the person has earned since the revocation. The parole board may reinstate the person on parole at any time after the revocation. (d) This subsection does not apply to a person who is a sexually violent predator under IC 35-38-1-7.5. When a sexually violent predator completes the person's fixed term of imprisonment, less credit time earned with respect to that term, the person shall be placed on parole for the remaining part of the person's life. (e) This subsection applies to a person who is a sexually violent predator under IC 35-38-1-7.5. When a sexually violent predator completes the person's fixed term of imprisonment, less credit time earned with respect to that term, the person shall be placed on parole for the remaining part of the person's life. (f) This subsection applies to a parolee in another jurisdiction who is a sexually violent predator under IC 35-38-1-7.5 and whose parole supervision is transferred to Indiana from another jurisdiction. In accordance with IC 11-13-4-1(2) ( Interstate Compact for Out-of-State Probationers and Parolees) and rules adopted under Article VII (d)(8) of the Interstate Compact for Adult Offender Supervision (IC 11-13-4-5), a parolee who is a sexually violent predator and whose parole supervision is transferred to Indiana is subject to the same conditions of parole as a sexually violent predator convicted in Indiana, including:

1. lifetime parole (as described in subsection (e)); and
2. the requirement that the person wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location, if applicable.

(g) A person being supervised on lifetime parole as described in subsection (e) is also required to be supervised by a court, a probation department, a community corrections program, a community transition program, or another similar program upon the person's release from imprisonment, the parole board may:

1. supervise the person while the person is being supervised by the other supervising agency; or
2. permit the other supervising agency to exercise all or part of the parole board's supervisory responsibility during the period in which the other supervising agency is required to supervise the person, if supervision by the other supervising agency will be, in the opinion of the parole board:

(A) at least as stringent; and
(B) at least as effective; as supervision by the parole board.

(h) The parole board is not required to supervise a person on lifetime parole during any period in which the person is imprisoned. However, upon the person's release from imprisonment, the parole board shall recommence its supervision of a person on lifetime parole. SECTION 39. IC 35-50-6-5 is amended to read as follows [Effective July 1, 2006]: Sec. 5. (a) A person may, with respect to the same transaction, be deprived of any part of the credit time he or she has earned for any of the following:

1. A violation of one (1) or more rules of the department of correction.
2. If the person is not committed to the department, a violation of one (1) or more rules of the penalty facility in which the person is imprisoned.
3. A violation of one (1) or more rules or conditions of a community transition program.
4. If a court determines that a civil claim brought by the person in a state or an administrative court is frivolous, unreasonable, or groundless.
5. If the person is a sex offender (as defined in IC 11-8-8-5) and refuses to register before being released from the department as required under IC 11-8-8-7.
6. If the person is a sex offender (as defined in IC 11-8-8-5) and refuses to participate in a sex offender treatment program specifically offered to the sex offender by the department of correction while the person is serving a period of incarceration with the department of correction. However, the violation of a condition of parole or probation may not be the basis for deprivation. Whenever a person is deprived of credit time, he may also be reassigned to Class II or Class III.

(b) Before a person may be deprived of earned credit time, the person must be granted a hearing to determine the person's guilt or innocence and, if found guilty, whether deprivation of earned credit time is an appropriate disciplinary action for the violation. In connection with the hearing, the person is entitled to the procedural safeguards listed in section 4(c) of this chapter. The person may waive the person's right to the hearing.

(c) Any part of the credit time of which a person is deprived under
this section may be restored.

SECTION 40. IC 36-2-13-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5.5. (a) The sheriffs shall jointly establish and maintain an Indiana sex offender web site, known as the Indiana sex offender registry, to inform the general public about the identity, location, and appearance of every sex offender residing within Indiana. The web site must provide information regarding each sex offender, organized by county of residence. The web site shall be updated at least every seven (7) days.

(b) The Indiana sex offender web site must include the following information:

(1) A recent photograph of every sex offender who has registered with a sheriff after the effective date of this chapter.

(2) The home address of every sex offender.

(3) The information required to be included in the sex offender directory (IC 5-2-12-67) under IC 11-8-8-8.

(c) Every time a sex offender submits a new registration form to the sheriff registers, but at least once per year, the sheriff shall photograph the sex offender. The sheriff shall place this photograph on the Indiana sex offender web site.

(d) The photograph of a sex offender described in subsection (c) must meet the following requirements:

(1) The photograph must be full face, front view, with a plain white or off-white background.

(2) The image of the offender's face, measured from the bottom of the chin to the top of the head, must fill at least seventy-five percent (75%) of the photograph.

(3) The photograph must be in color.

(4) The photograph must show the offender dressed in normal street attire, without a hat or headgear that obscures the hair or hairline.

(5) If the offender normally and consistently wears prescription glasses, a hearing device, wig, or a similar article, the photograph must show the offender wearing those items. A photograph may not include dark glasses or nonprescription glasses with tinted lenses unless the offender can provide a medical certificate demonstrating that tinted lenses are required for medical reasons.

(6) The photograph must have sufficient resolution to permit the offender to be easily identified by a person accessing the Indiana sex offender web site.

(e) The Indiana sex offender web site may be funded from:

(1) the jail commissary fund (IC 36-8-10-21);

(2) a grant from the criminal justice institute; and

(3) any other source, subject to the approval of the county fiscal body.

SECTION 41. IC 33-40-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. A supplemental public defender services fund is established in each county. The fund consists of amounts deposited under:

(1) section 9 of this chapter; and

(2) IC 35-33-8-3.3.

SECTION 42. IC 35-33-8-3.2, AS AMENDED BY P.L.10-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3.2. (a) A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety:

(1) Require the defendant to:

(A) execute a bail bond with sufficient surety; or

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

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

(D) post a real estate bond. The defendant must also pay the fee required by subsection (d).

(2) Require the defendant to execute a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail. If the defendant is convincted, the court may retain all or a part of the cash or securities to pay fines, costs, fees, and restitution, if ordered by the court. A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars ($50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision the following:

(A) Fines, costs, fees, and restitution as ordered by the court.

(B) Publicly paid costs of representation that shall be disposed of in accordance with subsection (b).

(C) In the event of the posting of a real estate bond, the bond shall be used only to assure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution.

(D) The fee required by subsection (d).

The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under subsection (b).

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

(4) Require the defendant to refrain from any direct or indirect contact with an individual.

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

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

(7) Release the defendant on personal recognizance unless:

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

(i) of nonappearance; or

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

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

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

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

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

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

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

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

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

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

(f) When a court imposes a condition of bail described in subsection (a)(4):
   (1) the clerk of the court shall comply with IC 5-2-9; and
   (2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 43. IC 35-33-8-3.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 3.3. (a) This section does not apply to a defendant charged in a city or town court.

   (b) If a defendant who has a prior unrelated conviction for any offense is charged with a new offense and placed under the supervision of a probation officer or pretrial services agency, the court may order the defendant to pay the pretrial services fee prescribed under subsection (e) if:
      (1) the defendant has the financial ability to pay the fee; and
      (2) the court finds by clear and convincing evidence that supervision by a probation officer or pretrial services agency is necessary to ensure the:
         (A) defendant's appearance in court; or
         (B) physical safety of the community or of another person.

(c) If a clerk of a court collects a pretrial services fee, the clerk may retain not more than three percent (3%) of the fee to defray the administrative costs of collecting the fee. The clerk shall deposit amounts retained under this subsection in the clerk's record perpetuation fund established under IC 33-37-5-2.

(d) If a clerk of a court collects a pretrial services fee from a defendant, upon request of the county auditor, the clerk shall transfer not more than three percent (3%) of the fee to the county auditor for deposit in the county general fund.

(e) The court may order a defendant who is supervised by a probation officer or pretrial services agency and charged with an offense to pay:
      (1) an initial pretrial services fee of at least twenty-five dollars ($25) and not more than one hundred dollars ($100); and
      (2) a monthly pretrial services fee of at least fifteen dollars ($15) and not more than thirty dollars ($30) for each month the defendant remains on bail and under the supervision of a probation officer or pretrial services agency; and
      (3) an administrative fee of one hundred dollars ($100) to the probation department, pretrial services agency, or clerk of the court if the defendant meets the conditions set forth in subsection (b).

(f) The probation department, pretrial services agency, or clerk of the court shall collect the administrative fee under subsection (e)(3) before collecting any other fee under subsection (e). Except for the money described in subsections (e) and (d), all money collected by the probation department, pretrial services agency, or clerk of the court under this section shall be transferred to the county treasurer, who shall deposit fifty percent (50%) of the money into the county supplemental adult probation services fund and fifty percent (50%) of the money into the county supplemental public defender services fund (IC 33-40-3-1). The fiscal body of the county shall appropriate money from the county supplemental adult probation services fund:
      (1) to the county, superior, or circuit court of the county that provides probation services or pretrial services to adults to supplement adult probation services or pretrial services; and
      (2) to supplement the salary of:
         (A) an employee of a pretrial services agency; or
         (B) a probation officer in accordance with the schedule adopted by the county fiscal body under IC 36-2-16.5.

(g) The county supplemental adult probation services fund may be used only to supplement adult probation services or pretrial services and to supplement salaries for probation officers or employees of a pretrial services agency. A supplemental probation services fund may not be used to replace other probation services or pretrial services funding. Any money remaining in the fund at the end of a fiscal year does not revert to any other fund but continues in the county supplemental adult probation services fund.

(h) A defendant who is charged with more than one (1) offense and who is supervised by the probation department or pretrial services agency as a condition of bail may not be required to pay more than:
      (1) one (1) initial pretrial services fee; and
      (2) one (1) monthly pretrial services fee per month.

(i) A probation department or pretrial services agency may petition a court to:
      (1) impose a pretrial services fee on a defendant; or
      (2) increase a defendant's pretrial services fee; if the financial ability of the defendant to pay a pretrial services fee changes while the defendant is on bail and supervised by a probation officer or pretrial services agency.

(j) An order to pay a pretrial services fee under this section:
      (1) is a judgment lien, upon the defendant's conviction:
         (A) attaches to the property of the defendant;
         (B) may be perfected;
         (C) may be enforced to satisfy any payment that is delinquent under this section; and
         (D) expires:
            in the same manner as a judgment lien created in a civil proceeding;
      (2) is not discharged by the disposition of charges against the defendant or by the completion of a sentence, if any, imposed on the defendant;
      (3) is not discharged by the liquidation of a defendant's estate by a receiver under IC 32-30-5; and
      (4) is immediately terminated if a defendant is acquitted or if charges against the defendant are dropped.

(k) If a court orders a defendant to pay a pretrial services fee, the court may, upon the defendant's conviction, enforce the order by garnishing the wages, salary, and other income earned by the defendant.

(l) If a defendant is delinquent in paying the defendant's pretrial services fee and has never been issued a driver's license or permit, upon the defendant's conviction, the court may order the bureau of motor vehicles to not issue a driver's license or permit to the defendant until the defendant has paid the defendant's delinquent pretrial services fee. If a defendant is delinquent in paying the defendant's pretrial services fee and the defendant's driver's license or permit has been suspended or revoked, the court may order the bureau of motor vehicles to not reinstate the defendant's driver's license or permit until the defendant has paid the defendant's delinquent pretrial services fee.

(m) In addition to other methods of payment allowed by law, a probation department or pretrial services agency may accept payment of a pretrial services fee by credit card (as defined in IC 14-11-1-7(a)). The liability for payment is not discharged until the probation department or pretrial services agency receives payment or credit from the institution responsible for making the payment or credit.

(n) The probation department or pretrial services agency may contract with a bank or credit card vendor for acceptance of a bank or credit card. However, if there is a vendor transaction charge or discount fee, whether billed to the probation department or pretrial services agency, or charged directly to the account of the probation department or pretrial services agency, the probation department or pretrial services agency may collect a credit card service fee from the person using the bank or credit card. The fee collected under this subsection is a permitted additional charge to the fee or fees the defendant may be required to pay under subsection (e).

(o) The probation department or pretrial services agency shall forward a credit card service fee collected under subsection (n) to the county treasurer in accordance with subsection (f). These funds may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.
of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after June 7, 1972, shall toll the running of the first year, which in such cases shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e), and (l), and (n) (q), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, 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 law enforcement officer successfully completes, at a board certified law enforcement academy at the northwest Indiana law enforcement training academy under section 10.5 of this chapter, or at the northwest Indiana law enforcement training center under section 10.5 or 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) This subsection does not apply to a gaming agent employed as a law enforcement officer by the Indiana gaming commission. Before a law enforcement officer appointed after June 30, 1993, completes the law enforcement requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

(1) law enforcement officers;
(2) police reserve officers (as described in IC 36-8-3-20); and
(3) conservation reserve officers (as described in IC 14-9-8-27); regarding the subjects of arrest, search and seizure, the lawful use of force, and firearm qualification: the operation of an emergency vehicle. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of at least forty (40) hours of course work. The board may prepare a classroom part of the pre-basic course on videotape that must be used using available technology in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including colleges and universities.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed the basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes a minimum of sixteen (16) hours each year of inservice training in any subject area included in the law enforcement academy’s basic training course or other job related subjects that are approved by the board as determined by the law enforcement department or agency’s needs. The mandatory inservice training requirements established by rules adopted by the board. Inservice training must include training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the law enforcement training board.

(h) The availability of community resources to assist human and sexual trafficking victims.

(i) Except as provided in subsection (f), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993. 

(j) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after June 7, 1972, shall toll the running of the first year, which in such cases shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(k) Except as provided in subsections (e) and (l) and (n) (q), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, 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 law enforcement officer successfully completes, at a board certified law enforcement academy at the northwest Indiana law enforcement training academy under section 10.5 of this chapter, or at the northwest Indiana law enforcement training center under section 10.5 or 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(l) This subsection does not apply to a gaming agent employed as a law enforcement officer by the Indiana gaming commission. Before a law enforcement officer appointed after June 30, 1993, completes the law enforcement requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(m) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

(1) law enforcement officers;
(2) police reserve officers (as described in IC 36-8-3-20); and
(3) conservation reserve officers (as described in IC 14-9-8-27); regarding the subjects of arrest, search and seizure, the lawful use of force, and firearm qualification: the operation of an emergency vehicle. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of at least forty (40) hours of course work. The board may prepare a classroom part of the pre-basic course on videotape that must be used using available technology in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including colleges and universities.

(n) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed the basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes a minimum of sixteen (16) hours each year of inservice training in any subject area included in the law enforcement academy’s basic training course or other job related subjects that are approved by the board as determined by the law enforcement department or agency’s needs. The mandatory inservice training requirements established by rules adopted by the board. Inservice training must include training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the law enforcement training board.

In addition, a certified academy staff may develop and make available inservice training programs on a regional or local basis and training concerning human and sexual trafficking. The board may approve courses offered by other public or private training entities, including colleges and universities, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer’s inservice training requirements if the board determines that the officer’s reason for lacking the required amount of inservice training hours is due to any other of the
following:

(1) An emergency situation.

(2) The unavailability of courses.

(h) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

(1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.

(2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.

(3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having not more than one (1) marshal and two (2) deputies.

(4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.

(5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

(i) The board shall adopt rules under IC 4-22-2 to establish a police chief executive training program. The executive training program must include training in the following areas:

(1) Liability.

(2) Media relations.

(3) Accounting and administration.

(4) Discipline.

(5) Department policy making.

(6) Firearm policies.

(7) Lawful use of force.

(8) Department programs.

(9) Emergency vehicle operation.

(10) Cultural diversity.

(j) A police chief shall apply for admission to the police chief executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the police chief executive training program within six (6) months of the date the police chief initially takes office. However, if space in the executive training program is not available at a time that will allow the police chief to complete the police chief executive training program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available executive training program that is offered to the police chief after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not continue to serve as the police chief until the police chief has completed the police chief completion of the executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

(1) the police chief of any city; and

(2) the police chief of any town having a metropolitan police department; and

(3) the chief of a consolidated law enforcement department established under IC 36-3-1-5.1.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the police chief executive training program.

(l) An A fire investigator in the arson division of the office of the state fire marshal division of fire and building safety appointed before January 1, 1994, is not required or after December 31, 1993, is required to comply with the basic training standards established under this section: chapter.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5.(3).

(n) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;

(2) worked as a full-time law enforcement officer for at least one (1) year before the officer is hired under subdivision (1);

(3) has not been employed as a law enforcement officer for at least two (2) years and less than six (6) years before the officer is hired under subdivision (1) due to the officer's resignation or retirement; and

(4) completed a basic training course certified by the board before the officer is hired under subdivision (1).

(o) An officer to whom subsection (n) applies must successfully complete the refresher course described in subsection (n) not later than six (6) months after the officer's date of hire, or the officer loses the officer's powers of:

(1) arrest;

(2) search; and

(3) seizure.

(p) A law enforcement officer who:

(1) has completed a basic training course certified by the board; and

(2) has not been employed as a law enforcement officer in the six (6) years before the officer is hired as a law enforcement officer;

is not eligible to attend the refresher course described in subsection (n) and must repeat the full basic training course to regain law enforcement powers.

(q) Subsection applies only to a gaming agent employed as a law enforcement officer by the Indiana Gaming Commission. A gaming agent appointed after June 30, 2005, may exercise the police powers described in subsection (d) if:

(1) the agent successfully completes the pre-basic course established in subsection (j); and

(2) the agent successfully completes any other training courses established by the Indiana Gaming Commission in conjunction with the board.

SECTION 45. IC 12-13-5-2, AS AMENDED BY P.L.234-2005, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. The division shall administer the following:

(1) Any sexual offense services.

(2) A child development associate scholarship program.

(3) Any school age dependent care program.

(4) Migrant day care services.

(5) Prevention services to high risk youth.

(6) Any commodities program.

(7) The migrant nutrition program.

(8) Any emergency shelter programs.

(9) Any weatherization programs.


(11) The home visitation and social services program.

(12) The educational consultants program.

(13) Community restitution or service programs.

(14) The crisis nursery program.

(15) Energy assistance programs.

(16) Domestic violence programs.

(17) Social services programs.

(18) Assistance to migrants and seasonal farmworkers.

(19) The step ahead comprehensive early childhood grant program.

(20) Assistance to victims of human and sexual trafficking offenses as provided in IC 35-42-3.5-4, as appropriate.

(21) Any other program:

(A) designated by the general assembly; or

(B) administered by the federal government under grants consistent with the duties of the division.

SECTION 46. IC 31-9-2-29.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 29.5. "Crime involving domestic or family violence" means a crime that occurs when a family or household member commits, attempts to commit, or conspires to commit any of the following against another family or household member:

(1) A homicide offense under IC 35-42-1.

(2) A battery offense under IC 35-42-2.

(3) Kidnapping or confinement under IC 35-42-3.

(4) A sex offense under IC 35-42-4.
(5) Robbery under IC 35-42-5.
(6) Arson or mischief under IC 35-43-1.
(7) Burglary or trespass under IC 35-43-2.
(8) Disorderly conduct under IC 35-45-1.
(9) Intimidation or harassment under IC 35-45-2.
(10) Voyeurism under IC 35-45-4.
(11) Stalking under IC 35-45-10.
(12) An offense against the family under IC 35-46-1-2 through IC 35-46-1-8, IC 35-46-1-12, or IC 35-46-1-15.1.

(13) Human and sexual trafficking crimes under IC 35-42-3.5.

SECTION 47. IC 35-32-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) A person who commits the offense of:
(1) kidnapping; (c)
(2) criminal confinement;
(3) human trafficking;
(4) promotion of human trafficking; or
(5) sexual trafficking of a minor;

may be tried in a county in which the victim has traveled or has been confined during the course of the offense.

(b) A person who commits the offense of criminal confinement or interference with custody may be tried in a county in which the child who was removed, taken, concealed, or detained in violation of a child custody order:
(1) was a legal resident at the time of the taking, concealment, or detention;
(2) was taken, detained, or concealed; or
(3) was found.

SECTION 48. IC 35-37-4-6, AS AMENDED BY P.L.2-2005, SECTION 120, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) This section applies to a criminal action involving the following offenses where the victim is a protected person under subsection (c)(1) or (c)(2):
(1) Sex crimes (IC 35-42-4). (h)
(2) Battery upon a child (IC 35-42-2-1(a)(2)(B)). (f)
(3) Kidnapping and confinement (IC 35-42-3). (f)
(4) Incest (IC 35-46-1-3). (f)
(5) Neglect of a dependent (IC 35-46-1-4).

(6) Human and sexual trafficking crimes (IC 35-42-3.5). (f) (7) An attempt under IC 35-41-5-1 for an offense listed in subdivisions (1) through (6).

(b) This section applies to a criminal action involving the following offenses where the victim is a protected person under subsection (c)(3):
(1) Exploitation of a dependent or endangered adult (IC 35-46-1-12).
(2) A sex crime (IC 35-42-4).
(3) Battery (IC 35-42-2-1). (h)
(4) Kidnapping, confinement, or interference with custody (IC 35-42-3). (f)
(5) Home improvement fraud (IC 35-43-6). (f)
(6) Fraud (IC 35-43-5). (f)
(7) Identity deception (IC 35-43-5-3.5). (f)
(8) Theft (IC 35-43-4-2). (f)
(9) Conversion (IC 35-43-4-3). (f)
(10) Neglect of a dependent (IC 35-46-1-4).

(11) Human and sexual trafficking crimes (IC 35-42-3-5). (f)

(c) As used in this section, "protected person" means:
(1) a child who is less than fourteen (14) years of age;
(2) a mentally disabled individual who has a disability attributable to an impairment of general intellectual functioning or adaptive behavior that:
(A) is manifested before the individual is eighteen (18) years of age;
(B) is likely to continue indefinitely;
(C) constitutes a substantial impairment of the individual's ability to function normally in society; and
(D) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated; or
(3) an individual who is:

(A) at least eighteen (18) years of age; and
(B) incapable by reason of mental illness, mental retardation, dementia, or other physical or mental incapacity of:
(i) managing or directing the management of the individual's property; or
(ii) providing or directing the provision of self-care.

(d) A statement or videotape that:
(1) is made by a person who at the time of trial is a protected person;
(2) concerns an act that is a material element of an offense listed in subsection (a) or (b) that was allegedly committed against the person; and
(3) is not otherwise admissible in evidence;

is admissible in evidence in a criminal action for an offense listed in subsection (a) or (b) if the requirements of subsection (e) are met.

(e) A statement or videotape described in subsection (d) is admissible in evidence in a criminal action listed in subsection (a) or (b) if, after notice to the defendant of a hearing and of the defendant's right to be present, all of the following conditions are met:
(1) The court finds, in a hearing:
(A) conducted outside the presence of the jury; and
(B) attended by the protected person;
that the time, content, and circumstances of the statement or videotape provide sufficient indications of reliability.

(2) The protected person:
(A) testifies at the trial; or
(B) is found by the court to be unavailable as a witness for one (1) of the following reasons:
(i) From the testimony of a psychiatrist, physician, or psychologist, and other evidence, if any, the court finds that the protected person's testifying in the physical presence of the defendant will cause the protected person to suffer serious emotional distress such that the protected person cannot reasonably communicate.
(ii) The protected person cannot participate in the trial for medical reasons.
(iii) The court has determined that the protected person is incapable of understanding the nature and obligation of an oath.

(f) If a protected person is unavailable to testify at the trial for a reason listed in subsection (e)(2)(B), a statement or videotape may be admitted in evidence under this section only if the protected person was available for cross-examination:
(1) at the hearing described in subsection (e)(1); or
(2) when the statement or videotape was made.

(g) A statement or videotape may not be admitted in evidence under this section unless the prosecuting attorney informs the defendant and the defendant's attorney at least ten (10) days before the trial:
(1) the prosecuting attorney's intention to introduce the statement or videotape in evidence; and
(2) the content of the statement or videotape.

(h) If a statement or videotape is admitted in evidence under this section, the court shall instruct the jury that it is for the jury to determine the weight and credit to be given the statement or videotape and that, in making that determination, the jury shall consider the following:
(1) The mental and physical age of the person making the statement or videotape.
(2) The nature of the statement or videotape.
(3) The circumstances under which the statement or videotape was made.
(4) Other relevant factors.

(i) If a statement or videotape described in subsection (d) is admitted into evidence under this section, a defendant may introduce a:
(1) transcript; or
(2) videotape;

of the hearing held under subsection (e)(1) into evidence at trial.

SECTION 49. IC 35-37-4-8, AS AMENDED BY P.L.2-2005, SECTION 121, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) This section applies to a criminal action under the following:
(1) Sex crimes (IC 35-42-4).
(2) Battery upon a child (IC 35-42-2-1(a)(2)(B)).
(3) Kidnapping and confinement (IC 35-42-3).
(4) Incest (IC 35-46-1-3).
(5) Neglect of a dependent (IC 35-46-1-4).

6 Human and sexual trafficking crimes (IC 35-42-3.5).

(a) An attempt under IC 35-41-5-1 for an offense listed in subdivisions (1) through (5).
(b) As used in this section, "protected person" has the meaning set forth in section 6 of this chapter.
(c) On the motion of the prosecuting attorney, the court may order that the testimony of a protected person be taken in a room other than the courtroom, and that the questioning of the protected person by the prosecution and the defense be transmitted using a two-way closed circuit television arrangement that:
   (1) allows the protected person to see the accused and the trier of fact; and
   (2) allows the accused and the trier of fact to see and hear the protected person.
(d) On the motion of the prosecuting attorney or the defendant, the court may order that the testimony of a protected person be videotaped for use at trial. The videotaping of the testimony of a protected person under this subsection must meet the requirements of subsection (c).
(e) The court may not make an order under subsection (c) or (d) unless:
   (1) the testimony to be taken is the testimony of a protected person who:
      (A) is the alleged victim of an offense listed in subsection (a) for which the defendant is being tried or is a witness in a trial for an offense listed in subsection (a); and
      (B) is found by the court to be a protected person who should be permitted to testify outside the courtroom because:
         (i) the court finds from the testimony of a psychiatrist, physician, or psychologist and any other evidence that the protected person's testifying in the physical presence of the defendant would cause the protected person to suffer serious emotional harm and the court finds that the protected person could not reasonably communicate in the physical presence of the defendant to the trier of fact.
         (ii) a physician has certified that the protected person cannot be present in the courtroom for medical reasons; or
         (iii) evidence has been introduced concerning the effect of the protected person's testifying in the physical presence of the defendant, and the court finds that it is more likely than not that the protected person's testifying in the physical presence of the defendant creates a substantial likelihood of emotional or mental harm to the protected person;
   (2) the prosecuting attorney has informed the defendant and the defendant's attorney of the intention to have the protected person testify outside the courtroom; and
   (3) the prosecuting attorney informed the defendant and the defendant's attorney under subdivision (2) at least ten (10) days before the trial of the prosecuting attorney's intention to have the protected person testify outside the courtroom.
(f) If the court makes an order under subsection (c), only the following persons may be in the same room as the protected person during the protected person's testimony:
   (1) A defense attorney if:
      (A) the defendant is represented by the defense attorney; and
      (B) the prosecuting attorney is also in the same room.
   (2) The prosecuting attorney if:
      (A) the defendant is represented by a defense attorney; and
      (B) the defense attorney is also in the same room.
   (3) Persons necessary to operate the closed circuit television equipment.
   (4) Persons whose presence the court finds will contribute to the protected person's well-being.
   (5) A court bailiff or court representative.
(g) If the court makes an order under subsection (d), only the following persons may be in the same room as the protected person during the protected person's videotaped testimony:
   (1) The judge.
   (2) The prosecuting attorney.
   (3) The defendant's attorney (or the defendant, if the defendant is not represented by an attorney).
   (4) Persons necessary to operate the electronic equipment.
   (5) The court reporter.
   (6) Persons whose presence the court finds will contribute to the protected person's well-being.
   (7) The defendant, who can observe and hear the testimony of the protected person with the protected person being able to observe or hear the defendant. However, if the defendant is not represented by an attorney, the defendant may question the protected person.
(h) If the court makes an order under subsection (c) or (d), only the following persons may question the protected person:
   (1) The prosecuting attorney.
   (2) The defendant's attorney (or the defendant, if the defendant is not represented by an attorney).
   (3) The judge.

SECTION 50. IC 35-41-1-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6.5. "Crime involving domestic or family violence" means a crime that occurs when a family or household member commits, attempts to commit, or conspires to commit any of the following against another family or household member:
   (1) A homicide offense under IC 35-42-1.
   (2) A battery offense under IC 35-42-2.
   (3) Kidnapping or confinement under IC 35-42-3.

4 Human and sexual trafficking crimes under IC 35-42-3.5.

(5) A sex offense under IC 35-42-4.
(6) Robbery under IC 35-42-5.
(7) Arson or mischief under IC 35-43-1.
(8) Burglary or trespass under IC 35-43-2.
(9) Disorderly conduct under IC 35-45-1.
(10) Intimidation or harassment under IC 35-45-2.
(11) Voyeurism under IC 35-45-4.
(12) Stalking under IC 35-45-10.
(13) An offense against family under IC 35-46-1-2 through IC 35-46-1-18, IC 35-46-1-12, or IC 35-46-1-15.1.

SECTION 51. IC 35-42-1-1, AS AMENDED BY ESB 193-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. A person who:
   (1) knowingly or intentionally kills another human being;
   (2) kills another human being while committing or attempting to commit arson, burglary, child molesting, consumer product tampering, criminal deviate conduct, kidnapping, rape, robbery, human trafficking, promotion of human trafficking, sexual trafficking of a minor, or carjacking;
   (3) kills another human being while committing or attempting to commit:
      (A) dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1);
      (B) dealing in or manufacturing methamphetamine (IC 35-48-4-1.1);
      (C) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);
      (D) dealing in a schedule IV controlled substance (IC 35-48-4-3); or
      (E) dealing in a schedule V controlled substance; or
   (4) knowingly or intentionally kills a fetus that has attained viability (as defined in IC 16-18-2-365);
   commits murder, a felony.

SECTION 52. IC 35-42-3.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 3.5. Human and Sexual Trafficking

Sec. 1. (a) A person who knowingly or intentionally recruits, harbors, or transports another person by force, threat of force, or fraud:
   (1) to engage the other person in:
      (A) forced labor; or
      (B) involuntary servitude; or
(2) to force the other person into:

(A) marriage; or

(B) prostitution;

commits promotion of human trafficking, a Class B felony.

(b) A parent, guardian, or custodian of a child less than

eighteen (18) years of age who knowingly or intentionally sells or transfers custody of the child for the purpose of prostitution

commits sexual trafficking of a minor, a Class A felony.

(c) A person who knowingly or intentionally

promises to pay, or agrees to pay money or other property to another person

for an individual who the person knows has been forced into:

(1) forced labor;

(2) involuntary servitude; or

(3) prostitution;

commits human trafficking, a Class C felony.

Sec. 2. In addition to any sentence or fine imposed for a

conviction of an offense under section 1 of this chapter, the court

shall order the person convicted to make restitution to the victim of the crime under IC 35-50-5-3.

Sec. 3. (a) If a person is convicted of an offense under section

1 of this chapter, the victim of the offense:

(1) has a civil cause of action against the person convicted of the offense; and

(2) may recover the following from the person in the civil action:

(A) Actual damages.

(B) Court costs.

(C) Punitive damages, when determined to be

appropriate by the court.

(D) Reasonable attorney's fees.

(b) An action under this section must be brought not more

than two (2) years after the date the person is convicted of the offense under section 1 of this chapter.

Sec. 4. (a) An alleged victim of an offense under section 1 of this chapter:

(1) may not be detained in a facility that is inappropriate to

the victim's status as a crime victim;

(2) may not be jailed, fined, or otherwise penalized due to

having been the victim of the offense; and

(3) shall be provided protection if the victim's safety is at

risk or if there is danger of additional harm by recapture of

the victim by the person alleged to have committed the offense:

(A) taking measures to protect the alleged victim and the

victim's family members from intimidation and threats of

reprisal and reprisals from the person alleged to have committed the offense or the person's agent; and

(B) ensuring that the names and identifying information of the alleged victim and the victim's family members are not disclosed to the public.

This subsection shall be administered by law enforcement agencies and the division of family resources, as appropriate.

(b) Not more than fifteen (15) days after the date a law

enforcement agency first encounters an alleged victim of an offense under section 1 of this chapter, the law enforcement agency shall provide the alleged victim with a completed Declaration of Law Enforcement Officer for Victim of Trafficking or Exploitation of Persons (LEA Declaration, Form 1-914 Supplement B) in accordance with 8 CFR 214.11(f)(1). However, if the law enforcement agency finds that the grant of an LEA Declaration is not appropriate for the alleged victim, the law enforcement agency shall, not more than fifteen (15) days after

the date the agency makes the finding, provide the alleged victim with a letter explaining the grounds for the denial of the LEA Declaration. After receiving a denial letter, the alleged victim may submit additional evidence to the law enforcement agency. If the alleged victim submits additional evidence, the law enforcement agency shall reconsider the denial of the LEA Declaration not more than seven (7) days after the date the agency receives the additional evidence.

SECTION 53. IC 35-45-6-1, AS AMENDED BY ESB 193-2006, SECTION 16. IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. As used in this chapter:

"Documentary material" means any document, drawing, photograph, recording, or other tangible item containing compiled data from which information can be either obtained or translated into a usable form.

"Enterprise" means:

(1) a sole proprietorship, corporation, limited liability company, partnership, business trust, or governmental entity; or

(2) a union, an association, or a group, whether a legal entity or merely associated in fact.

"Pattern of racketeering activity" means engaging in at least two (2) incidents of racketeering activity that have the same or similar intent, result, accomplice, victim, or method of commission, or that are otherwise interrelated by distinguishing characteristics that are not isolated incidents. However, the incidents are a pattern of racketeering activity only if at least one (1) of the incidents occurred after August 31, 1980, and if the last of the incidents occurred within five (5) years after a prior incident of racketeering activity.

"Racketeering activity" means to commit, to attempt to commit, to conspire to commit a violation of, or aiding and abetting in a violation of any of the following:

(1) A provision of IC 23-2-1, or of a rule or order issued under IC 23-2-1.

(2) A violation of IC 35-45-49.

(3) A violation of IC 35-47.

(4) A violation of IC 35-49-3.

(5) Murder (IC 35-42-1-1).

(6) Battery as a Class C felony (IC 35-42-2-1).

(7) Kidnapping (IC 35-42-3-2).

(8) Human and sexual trafficking crimes (IC 35-42-3.5).

(9) Child exploitation (IC 35-42-4-4).

(10) Robbery (IC 35-42-5-1).

(11) Carjacking (IC 35-42-5-2).

(12) Arson (IC 35-43-1-1).

(13) Burglary (IC 35-43-2-1).

(14) Theft (IC 35-43-4-2).

(15) Receiving stolen property (IC 35-43-4-2).

(16) Forgery (IC 35-43-5-2).

(17) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(9)).

(18) Bribery (IC 35-44-1-1).

(19) Official misconduct (IC 35-44-1-2).

(20) Conflict of interest (IC 35-44-1-3).

(21) Perjury (IC 35-44-2-1).

(22) Obstruction of justice (IC 35-44-3-4).

(23) Intimidation (IC 35-45-2-1).

(24) Promoting prostitution (IC 35-45-4-4).

(25) Promoting professional gambling (IC 35-45-5-4).

(26) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).

(27) Dealing in or manufacturing methamphetamine (IC 35-48-4-1.1).

(28) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(29) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(30) Dealing in a schedule V controlled substance (IC 35-48-4-4).

(31) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).


(33) A violation of IC 35-47-5-5.

SECTION 54. IC 35-50-5-3, AS AMENDED BY EHB 1101-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) Except as provided in subsection (i) or (j), in addition to any sentence imposed under this article for a felony or misdemeanor, the court may, as a condition of probation or without placing the person on probation, order the person to make restitution to the victim of the crime, the victim’s estate, or the family of a victim who is deceased. The court shall base its restitution order upon a consideration of:

(1) property damages of the victim incurred as a result of the crime, based on the actual cost of repair (or replacement if repair is inappropriate);

(2) medical and hospital costs incurred by the victim (before the date of sentencing) as a result of the crime;
(3) the cost of medical laboratory tests to determine if the crime has caused the victim to contract a disease or other medical condition;
(4) earnings lost by the victim (before the date of sentencing) as a result of the crime including earnings lost while the victim was hospitalized or participating in the investigation or trial of the crime; and
(5) funeral, burial, or cremation costs incurred by the family or estate of a homicide victim as a result of the crime.

(b) A restitution order under subsection (a), or (i), or (j) is a judgment lien that:

(1) attaches to the property of the person subject to the order;
(2) may be perfected;
(3) may be enforced to satisfy any payment that is delinquent under the restitution order by the person in whose favor the order is issued or the person's assignee; and
(4) expires;

in the same manner as a judgment lien created in a civil proceeding.

(c) When a restitution order is issued under subsection (a), the issuing court may order the person to pay the restitution, or part of the restitution, directly to:

(1) the victim services division of the Indiana criminal justice institute in an amount not exceeding:
   (A) the amount of the award, if any, paid to the victim under IC 5-2-6-1; and
   (B) the cost of the reimbursements, if any, for emergency services provided to the victim under IC 16-10-1.5 (before its repeal) or IC 16-21-8; or
(2) a probation department that shall forward restitution or part of restitution to:
   (A) a victim of a crime;
   (B) a victim's estate;
   (C) the family of a victim who is deceased.

The victim services division of the Indiana criminal justice institute shall deposit the restitution it receives under this subsection in the violent crime victims compensation fund established by IC 5-2-6-1-40.

(d) When a restitution order is issued under subsection (a), (i), or (j), the issuing court shall send a certified copy of the order to the clerk of the circuit court in the county where the felony or misdemeanor charge was filed. The restitution order must include the following information:

(1) The name and address of the person that is to receive the restitution.
(2) The amount of restitution the person is to receive.

Upon receiving the order, the clerk shall enter and index the order in the circuit court judgment docket in the manner prescribed by IC 33-32-3-2. The clerk shall also notify the department of insurance of an order of restitution under subsection (i).

(e) An order of restitution under subsection (a), (i), or (j), does not bar a civil action for:

(1) damages that the court did not require the person to pay to the victim under the restitution order but arise from an injury or property damage that is the basis of restitution ordered by the court; and
(2) other damages suffered by the victim.

(f) Regardless of whether restitution is required under subsection (a) as a condition of probation or other sentence, the restitution order is not discharged by the completion of any probationary period or other sentence imposed for a felony or misdemeanor.

(g) A restitution order under subsection (a), (i), or (j), is not discharged by the liquidation of a person's estate by a receiver under IC 32-30-5 (or IC 34-48-1, IC 34-48-4, IC 34-48-5, IC 34-48-6, IC 34-1-12, or IC 34-2-7 before their repeal).

(h) The attorney general may pursue restitution ordered by the court under subsections (a) and (c) on behalf of the victim services division of the Indiana criminal justice institute established under IC 5-2-6-8.

(i) The court may order the person convicted of an offense under IC 35-43-9 to make restitution to the victim of the crime. The court shall base its restitution order upon a consideration of the amount of money that the convicted person converted, misappropriated, or received, or for which the convicted person conspired. The restitution order issued for a violation of IC 35-43-9 must comply with subsections (b), (d), (e), and (g), and is not discharged by the completion of any probationary period or other sentence imposed for a violation of IC 35-43-9.

(j) The court may order the person convicted of an offense under IC 35-43-5-3.5 to make restitution to the victim of the crime, the victim's estate, or the family of a victim who is deceased. The court shall base its restitution order upon a consideration of the amount of fraud or harm caused by the convicted person and any reasonable expenses (including lost wages) incurred by the victim in correcting the victim's credit report and addressing any other issues caused by the commission of the offense under IC 35-43-5-3.5. If, after a person is sentenced for an offense under IC 35-43-5-3.5, a victim, a victim's estate, or the family of a victim discovers or inures additional expenses that result from the convicted person's commission of the offense under IC 35-43-5-3.5, the court may issue one (1) or more restitution orders to require the convicted person to make restitution, even if the court issued a restitution order at the time of sentencing. For purposes of entering a restitution order after sentencing, a court has continuing jurisdiction over a person convicted of an offense under IC 35-43-5-3.5 for five (5) years after the date of sentencing. Each restitution order issued for a violation of IC 35-43-5-3.5 must comply with subsections (b), (d), (e), and (g), and is not discharged by the completion of any probationary period or other sentence imposed for an offense under IC 35-43-5-3.5.

(k) The court shall order a person convicted of an offense under IC 35-42-3.5 to make restitution to the victim of the crime in an amount equal to the greater of the following:

(1) The gross income or value to the person of the victim's labor or services.
(2) The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of:
   (A) the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201-209); or
   (B) IC 22-2-2 (Minimum Wage); whichever is greater.

SECTION 55. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 5-2-6-3-5; IC 5-2-12.

SECTION 56. [EFFECTIVE JULY 1, 2006] (a) The sentencing policy study committee shall study issues related to human and sexual trafficking.

(b) This SECTION expires December 31, 2006.

SECTION 57. [EFFECTIVE JULY 1, 2006] IC 11-8-8-15, IC 11-8-8-17, IC 11-8-8-18, IC 35-42-4-10, and IC 35-44-3-13, all as added by this act, and IC 35-42-4-11 and IC 35-43-1-2, both as amended by this act, apply only to crimes committed after June 30, 2006.

SECTION 58. [EFFECTIVE JULY 1, 2006] Notwithstanding IC 10-13-6-10, IC 10-13-6-11, IC 35-38-2-2-3, IC 35-38-2-6-3, all as amended by this act, and IC 35-38-1-27, as added by this act, a probation department, community corrections department, or other agency supervising an offender on conditional release is not required to collect a DNA sample before October 1, 2006. However, a probation department, community corrections department, or other agency supervising an offender on conditional release is authorized to collect a DNA sample before October 1, 2006, and DNA sample collected before October 1, 2006, may be analyzed and placed in the convicted offender database.

SECTION 59. [EFFECTIVE JULY 1, 2006] IC 35-38-2-2-6 and IC 35-50-6-1, both as added by this act, apply only to crimes committed after June 30, 2006.

SECTION 60. [EFFECTIVE UPON PASSAGE] (a) The department of correction shall report to the budget committee on or before August 1, 2006, concerning the estimated costs of implementing IC 11-13-3-4(i), as added by this act, and the feasibility of recovering those costs from offenders.

(b) This SECTION expires July 1, 2007.

SECTION 61. [EFFECTIVE JULY 1, 2006] (a) The department of correction shall report to the legislative council before November 1 of each year concerning the department's implementation of lifetime parole and GPS monitoring for sex offenders. The report must include information relating to:
(1) the expense of lifetime parole and GPS monitoring; 
(2) recidivism; and 
(3) any proposal to make the program of lifetime parole and 
GPS monitoring less expensive or more effective, or both. 
(b) The report described in subsection (a) must be in an 
electronic format under IC 5-14-6. 
(c) This SECTION expires November 2, 2010. 
SECTION 62. P.L.61-2005. SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 1. (a) As used in this SECTION, "committee" refers to the sentencing policy study committee established by subsection (c). 
(b) The general assembly finds that a comprehensive study of 
sentencing laws and policies is desirable in order to: 
(1) ensure that sentencing laws and policies protect the public safety; 
(2) establish fairness and uniformity in sentencing laws and policies; 
(3) determine whether incarceration or alternative sanctions are 
appropriate for various categories of criminal offenses; and 
(4) maximize cost effectiveness in the administration of 
sentencing laws and policies. 
(c) The sentencing policy study committee is established to 
evaluate sentencing laws and policies as they relate to: 
(1) the purposes of the criminal justice and corrections systems; 
(2) the availability of sentencing options; and 
(3) the inmate population in department of correction facilities. 
If, based on the committee's evaluation under this subsection, the 
committee determines changes are necessary or appropriate, the 
committee shall make recommendations to the general assembly for 
the modification of sentencing laws and policies and for the addition, 
deletion, or expansion of sentencing options. 
(d) The committee shall do the following: 
(1) Evaluate the existing classification of criminal offenses into 
felony and misdemeanor categories. In determining the proper 
category for each felony and misdemeanor, the committee shall 
consider, to the extent they have relevance, the following: 
(A) The nature and degree of harm likely to be caused by the 
offense, including whether the offense involves property, 
irreplaceable property, a person, a number of persons, or a 
breach of the public trust. 
(B) The deterrent effect a particular classification may have 
on the commission of the offense. 
(C) The current incidence of the offense in Indiana. 
(D) The rights of the victim. 
(2) Recommend structures to be used by a sentencing court in 
determining the most appropriate sentence to be imposed in a 
criminal case, including any combination of imprisonment, 
probation, restitution, community service, or house arrest. The 
committee shall also consider the following: 
(A) The nature and characteristics of the offense. 
(B) The severity of the offense in relation to other offenses. 
(C) The characteristics of the defendant that mitigate or 
aggravate the seriousness of the criminal conduct and the 
punishment deserved for that conduct. 
(D) The defendant's number of prior convictions. 
(E) The available resources and capacity of the department of 
correction, local confinement facilities, and community 
based sanctions. 
(F) The rights of the victim. 
The committee shall include with each set of sentencing 
structures an estimate of the effect of the sentencing structures 
on the department of correction and local facilities with respect 
to both fiscal impact and inmate population. 
(3) Review community corrections and home detention 
programs for the purpose of: 
(A) standardizing procedures and establishing rules for the 
supervision of home detainees; and 
(B) establishing procedures for the supervision of home 
detainees by community corrections programs of adjoining 
counties. 
(4) Determine the long range needs of the criminal justice and 
corrections systems and recommend policy priorities for those 
systems. 
(5) Identify critical problems in the criminal justice and 
corrections systems and recommend strategies to solve the 
problems. 
(6) Assess the cost effectiveness of the use of state and local 
funds in the criminal justice and corrections systems. 
(7) Recommend a comprehensive community corrections 
strategy based on the following: 
(A) A review of existing community corrections programs. 
(B) The identification of additional types of community 
corrections programs necessary to create an effective 
continuum of corrections sanctions. 
(C) The identification of categories of offenders who should 
be eligible for sentencing to community corrections programs 
and the impact that changes to the existing system of 
community corrections programs would have on sentencing 
practices. 
(D) The identification of necessary changes in state oversight 
and coordination of community corrections programs. 
(E) An evaluation of mechanisms for state funding and local 
community participation in the operation and implementation 
of community corrections programs. 
(F) An analysis of the rate of recidivism of clients under 
the supervision of existing community corrections programs. 
(G) Propose plans, programs, and legislation for improving the 
effectiveness of the criminal justice and corrections systems. 
(H) Evaluate the use of faith based organizations as an 
alternative to incarceration. 
(10) Study issues related to sex offenders, including: 
(A) lifetime parole; 
(B) GPS or other electronic monitoring; 
(C) a classification system for sex offenders; 
(D) recidivism; and 
(E) treatment. 
(e) The committee may study other topics assigned by the 
legislative council or as directed by the committee chair. The 
committee may meet as often as necessary. 
(f) The committee consists of nineteen (19) twenty (20) members 
appointed as follows: 
(1) Four (4) members of the senate, not more than two (2) of 
whom may be affiliated with the same political party, to be 
appointed by the president pro tempore of the senate. 
(2) Four (4) members of the house of representatives, not more 
than two (2) of whom may be affiliated with the same political 
party, to be appointed by the speaker of the house of 
representatives. 
(3) The chief justice of the supreme court or the chief justice's 
designee. 
(4) The commissioner of the department of correction or the 
commissioner's designee. 
(5) The director of the Indiana criminal justice institute or the 
director's designee. 
(6) The executive director of the prosecuting attorneys council 
of Indiana or the executive director's designee. 
(7) The executive director of the public defender council of 
Indiana or the executive director's designee. 
(8) One (1) person with experience in administering community 
corrections programs, appointed by the governor. 
(9) One (1) person with experience in administering probation 
programs, appointed by the governor. 
(10) Two (2) judges who exercise juvenile jurisdiction, not 
more than one (1) of whom may be affiliated with the same 
political party, to be appointed by the governor. 
(11) Two (2) judges who exercise criminal jurisdiction, not 
more than one (1) of whom may be affiliated with the same 
political party, to be appointed by the governor. 
(12) One (1) board certified psychologist or psychiatrist who 
has expertise in treating sex offenders, appointed by the 
governor to act as a nonvoting advisor to the committee. 
(g) The chairman of the legislative council shall appoint a 
legislative member of the committee to serve as chair of the 
committee. Whenever there is a new chairman of the legislative 
council, the new chairman may remove the chair of the committee 
and appoint another chair.
(h) If a legislative member of the committee ceases to be a member of the chamber from which the member was appointed, the member also ceases to be a member of the committee.

(i) A legislative member of the committee may be removed at any time by the appointing authority who appointed the legislative member.

(j) If a vacancy exists on the committee, the appointing authority who appointed the former member whose position is vacant shall appoint an individual to fill the vacancy.

(k) The committee shall submit a final report of the results of its study to the legislative council before November 1, 2006. The report must be in an electronic format under IC 5-14-6.

(l) The Indiana criminal justice institute shall provide staff support to the committee.

(m) Each member of the committee is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative and lay members, respectively, of interim study committees established by the legislative council.

(n) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including the final report.

(o) Except as otherwise specifically provided by this act, the committee shall operate under the rules of the legislative council. All funds necessary to carry out this act shall be paid from appropriations to the legislative council and legislative services agency.

(p) This SECTION expires December 31, 2006.

SECTION 63. [EFFECTIVE JULY 1, 2006] IC 35-44-3-9.3, as added by this act, applies only to crimes committed after June 30, 2006.

SECTION 64. An emergency is declared for this act.

(Reference is to EHB 1155 as reprinted March 1, 2006.)

BUDAK LONG
BARDON SIMPSON
House Conferees Senate Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1108–1; filed March 13, 2006, at 8:52 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 1108 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 the environment.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 13-18-16-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) A nonprofit water utility may adopt a resolution approved by its board of directors under this section that reconstitutes the nonprofit water utility as a water authority to be named as provided in the resolution.

(b) A resolution adopted under this section must allow:

(1) the structure of the board of directors; and

(2) the rules governing the water authority; to remain the same as those applicable to the nonprofit water utility.

(c) The water authority shall retain all its powers, privileges, rights, and exemptions as a nonprofit water utility under:

(1) its existing bylaws and articles; and

(2) all laws applicable to nonprofit water utilities and local water corporations, including powers granted under IC 32-24-4-1.

(d) Except as provided in subsection (g), a water authority constituted under this section is a political subdivision of the state.

(e) A copy of a resolution adopted under this section must be filed with the secretary of state. When the secretary of state receives a copy of a resolution under this subsection, the secretary of state shall dissolve the corporate status of the nonprofit water utility for purposes of state law.

(f) A water authority constituted under this section shall:

(1) remain obligated under any existing contracts or agreements; and

(2) remain obligated and assume the indebtedness; of the nonprofit water utility.

(g) Notwithstanding any other law and subject to subsections (h) and (i), a water authority constituted under this section is subject only to the laws applicable to nonprofit water utilities and local water corporations and is not subject to the following:

(1) IC 5-3.

(2) IC 5-4-1.

(3) IC 5-11.

(4) IC 5-13.

(5) IC 5-14-1.5.

(6) IC 5-14-3.

(7) IC 5-22.

(8) IC 36-1-8.

(9) IC 36-1-10.

(10) IC 36-1-10.5.

(11) IC 36-1-11.

(12) IC 36-1-12.

(13) IC 36-1-15.

(h) A water authority constituted under this section is subject to IC 8-1.5-3-8 for purposes of setting rates and charges.

(i) For each fiscal or calendar year of a water authority constituted under this section that ends after December 31, 2006, the water authority:

(1) shall:

(A) have an audit of its financial records performed by an independent certified public accounting firm; and

(B) keep the audit report on file at the water authority; and

(2) notwithstanding IC 5-11-1-9, is not subject to the following:

(A) Audit or examination by the state board of accounts.

(B) The examination guidelines and reporting requirements of the state board of accounts.

(Reference is to EHB 1018 as reprinted March 2, 2006.)

J. LUTZ HERSHMAN
ROBERTSON LEWIS
House Conferees Senate Conferees

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

CONFERENCE COMMITTEE REPORT
EHB 1114–1; filed March 13, 2006, at 8:53 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1114 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 24-5-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) A water authority constituted under this section shall:

(1) remain obligated under any existing contracts or agreements; and

(2) remain obligated and assume the indebtedness; of the nonprofit water utility.

(3) Obtaining an extension of credit for a buyer.

(b) The term "credit services organization" does not include any of the following:

(1) A person authorized to make loans or extensions of credit
under state or federal laws that is subject to regulation and supervision under state or federal laws, or a lender approved by the United States Secretary of Housing and Urban Development for participation in a mortgage insurance program under the federal National Housing Act (12 U.S.C. 1701 et seq.).

(2) A bank or savings association or a subsidiary of a bank or savings association that has deposits or accounts that are eligible for insurance by the Federal Deposit Insurance Corporation.

(3) A credit union doing business in Indiana.

(4) A nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(5) A person licensed as a real estate broker under IC 25-34.1 if the person is acting within the course and scope of the person's license.

(6) A person admitted to the practice of law in Indiana if the person is acting within the course and scope of the person's practice as an attorney.

(7) A broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission if the broker-dealer is acting within the course and scope of the broker-dealer's regulation.

(8) A consumer reporting agency (as defined in the Federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.)).

SECTION 2. IC 24-5-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 5. The budget agency may augment the appropriation for the department of insurance from balances in the fund.

Sec. 6. The following shall be deposited in the title insurance enforcement fund:

(1) Policy reporting fees remitted by title insurers to the commissioner under section 7 of this chapter.

(2) All fines, monetary penalties, and costs imposed upon persons by the department as authorized by law for violation of IC 27-7-3.5.

(3) Other amounts remitted to the commissioner or the department that are required by law to be deposited into the title insurance enforcement fund.

Sec. 7. (a) A person that purchases a title insurance policy shall pay to the title insurer that issues the title insurance policy a fee of five dollars ($5) as a fee for the title insurance enforcement fund at the time of payment for the title insurance policy.

(b) A title insurer shall:

(1) retain two dollars ($2) of the fee collected under subsection (a) as an administrative fee; and

(2) pay to the department three dollars ($3) of the fee collected under subsection (a) for deposit in the title insurance enforcement fund.

SECTION 6. IC 32-21-1-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. A conveyance of land may incorporate by reference a recorded covenant, restriction, easement, or other encumbrance on the use of the land with a clause that is substantially similar to either of the following:

(1) "Subject to the _______ (insert the type of encumbrance) recorded on _______ (insert the date of recording) in _______ (insert the book and page number on which the encumbrance is recorded or the instrument number in which the encumbrance is recorded)."

(2) "Subject to _______ (insert the type of encumbrance) of record."

SECTION 7. IC 32-21-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 1. In any suit to establish title to land or real estate, possession of the land or real estate is not adverse to the owner in a manner as to establish title or rights in and to the land or real estate unless the adverse possessor or claimant pays and discharges all taxes and special assessments that the adverse possessor or claimant reasonably believes in good faith to be due on the land or real estate during the period the adverse possessor or claimant claims to have

business in Indiana, a credit services organization must obtain a surety bond in the amount of ten twenty-five thousand dollars ($10,000) ($25,000), issued by a surety company authorized to do business in Indiana in favor of the state for the benefit of a person that is damaged by a violation of this chapter.

(b) The attorney general may waive the bonding requirement under subsection (a) and, instead of the bond, accept an irrevocable letter of credit for an equivalent amount issued in favor of the state for the benefit of a person that is damaged by a violation of this chapter.

SECTION 5. IC 27-7-3.6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [JULY 1, 2006]:

Chapter 3.6. Title Insurance Enforcement Fund

Sec. 1. The title insurance enforcement fund is established for the following purposes:

(1) To provide supplemental funding for department operations that are related to title insurance.

(2) To pay the costs of hiring and employing staff in the area of enforcement of title insurance law.

Sec. 2. The title insurance enforcement fund shall be administered by the commissioner. The expenses of administering the title insurance enforcement fund shall be paid from money in the fund.

Sec. 3. 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.

Sec. 4. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 5. The budget agency may augment the appropriation for the department of insurance from balances in the fund.

Sec. 6. The following shall be deposited in the title insurance enforcement fund:

(1) Policy reporting fees remitted by title insurers to the commissioner under section 7 of this chapter.

(2) All fines, monetary penalties, and costs imposed upon persons by the department as authorized by law for violation of IC 27-7-3.5.

(3) Other amounts remitted to the commissioner or the department that are required by law to be deposited into the title insurance enforcement fund.

Sec. 7. (a) A person that purchases a title insurance policy shall pay to the title insurer that issues the title insurance policy a fee of five dollars ($5) as a fee for the title insurance enforcement fund at the time of payment for the title insurance policy.

(b) A title insurer shall:

(1) retain two dollars ($2) of the fee collected under subsection (a) as an administrative fee; and

(2) pay to the department three dollars ($3) of the fee collected under subsection (a) for deposit in the title insurance enforcement fund.

SECTION 6. IC 32-21-1-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. A conveyance of land may incorporate by reference a recorded covenant, restriction, easement, or other encumbrance on the use of the land with a clause that is substantially similar to either of the following:

(1) "Subject to the _______ (insert the type of encumbrance) recorded on _______ (insert the date of recording) in _______ (insert the book and page number on which the encumbrance is recorded or the instrument number in which the encumbrance is recorded)."

(2) "Subject to _______ (insert the type of encumbrance) of record."

SECTION 7. IC 32-21-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 1. In any suit to establish title to land or real estate, possession of the land or real estate is not adverse to the owner in a manner as to establish title or rights in and to the land or real estate unless the adverse possessor or claimant pays and discharges all taxes and special assessments that the adverse possessor or claimant reasonably believes in good faith to be due on the land or real estate during the period the adverse possessor or claimant claims to have
possessed the land or real estate adversely. However, this section does not relieve any adverse possessor or claimant from proving all the elements of title by adverse possession required by law.

SECTION 8. IC 33-37-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) A payment made under this chapter does not finally discharge the person's liability, and the person has not paid the liability until the clerk receives payment or credit from the institution responsible for making the payment or credit.

(b) The clerk may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, Subject to subsection (d), if there is a vendor transaction charge or discount fee, whether billed to the clerk or charged directly to the clerk's account, the clerk shall collect a credit card service fee equal to the vendor transaction charge or discount fee from the person using the bank or credit card.

The fee collected under this section is a permitted additional charge to the money the clerk is required to collect under section 1(1) of this chapter.

(c) Subject to subsection (d), the clerk may contract with a payment processing company, which may collect a transaction fee from the person using the bank card or credit card. The fee collected under this section is a permitted additional charge to the money the clerk is required to collect under section 1(1) of this chapter.

(d) The clerk shall collect and deposit in the appropriate fund an amount not less than the amount the clerk would collect and deposit if the clerk received payment by a means other than a bank card or credit card.

SECTION 9. IC 36-2-7-10 IS AMENDED TO READ AS FOLLOW [EFFECTIVE JULY 1, 2006]: Sec. 10.1. (a) As used in this section, "bulk form" means:

(1) a copy of all recorded documents received by the county recorder for recording in a calendar day, week, month, or year;

(2) the indices for finding, retrieving, and viewing all recorded documents received by the county recorder for recording in a calendar day, week, month, or year;

(3) both subdivisions (1) and (2).

(b) As used in this section, "bulk user" means an individual, a corporation, a partnership, or an unincorporated association whose primary purpose is to resell public records.

(c) As used in this section, "copy" means:

(1) duplicating electronically stored data onto a disk, tape, or any other medium of electronic data storage;

(2) reproducing on microfilm.

(d) As used in this section, "indexes" means all of the indexing information used by the county recorder for finding, retrieving, and viewing a recorded document.

(e) As used in this section, "recorded document" means a writing, a paper, a document, a plat, a map, a survey, or anything else received at any time for recording or filing in the public records maintained by the county recorder.

(f) The county recorder shall charge the fees prescribed by this section for the sale of recorded documents in bulk form copies to bulk users of public records. The county recorder shall pay the fees into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other fees for bulk form copies required by law to be charged for services rendered by the county recorder to bulk users.

(g) Except as provided by subsection (h), the county recorder shall
charge bulk users the following for bulk form copies:

1. Five cents ($0.05) per page for a recorded document, including the index of the instrument number or book and page, or both, for retrieving the recorded document.
2. Five cents ($0.05) per recorded document for a copy of the other indices used by the county recorder for finding, retrieving, and viewing a recorded document.

(h) As used in this subsection, “actual cost” does not include labor costs or overhead costs. The county recorder may charge a fee that exceeds the amount established by subsection (g) if the actual cost of providing the bulk form copies exceeds the amount established by subsection (g). However, the total amount charged for the bulk form copies may not exceed the actual cost plus one cent ($0.01) of providing the bulk form copies.

(i) The county recorder shall provide bulk users with bulk form copies in the format or medium in which the county recorder maintains the recorded documents and indices. If the county recorder maintains the recorded documents and indices in more than one (1) format or medium, the bulk user may select the format or medium in which the bulk user shall receive the bulk form copies. If the county recorder maintains the recorded documents and indices for finding, retrieving, and viewing the recorded documents in an electronic or a digitized format, a reasonable effort shall be made to provide the bulk user with bulk form copies in a standard, generally acceptable, readable format. Upon request of the bulk user, the county recorder shall provide the bulk form copies to the bulk user within a reasonable time after the recorder's archival process is completed and bulk form copies become available in the office of the county recorder.

(j) Bulk form copies under this section may be used:

1. In the ordinary course of the business of the bulk user; and
2. By customers of the bulk user.

The bulk user may charge its customers a fee for using the bulk form copies obtained by the bulk user. However, bulk form copies obtained by a bulk user under this section may not be resold.

(k) All revenue generated by the county recorder under this section shall be deposited in the recorder's record perpetuation fund and used by the recorder in accordance with IC 36-2-7-10.

(1) The county recorder shall provide the bulk user under this section with the Social Security numbers; and
2. To the extent possible, practicable, and as permitted by law, redacting all Social Security numbers contained in the documents, using redacting technology.

SECTION 5. (a) An individual preparing a document for recording or filing shall affix, under the penalties for perjury, that the individual has:

1. Reviewed the entire document before submitting the document for recording for the purpose of identifying and, to the extent permitted by law, redacting all Social Security numbers; and
2. Taken reasonable care to redact each Social Security number in the document.

(b) An individual shall make the affirmation required under subsection (a) on a form prescribed by the state board of accounts, make the affirmation and statement required by IC 36-2-11-15(c) and IC 36-2-11-15(d).
(1) an instrument executed before July 1, 1959, or recorded before July 26, 1967;
(2) a judgment, order, or writ of a court;
(3) a will or death certificate; or
(4) an instrument executed or acknowledged outside Indiana; or
(5) a federal lien on real property or a federal tax lien on personal property, as described in section 25 of this chapter.
(b) The recorder may receive for record or filing an instrument that conveys, creates, encumbers, assigns, or otherwise disposes of an interest in or lien on property only if:
   (1) the name of the person and governmental agency, if any, that prepared the instrument is printed, typewritten, stamped, or signed in a legible manner at the conclusion of the instrument; and
   (2) all Social Security numbers in the document are redacted, unless required by law.
(c) An instrument complies with this section subsection (b)(1) if it contains a statement in the following form: "This instrument was prepared by (name)."
(d) An instrument complies with subsection (b)(2) if it contains a statement in the following form: "I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. (name)"

SECTION 22. IC 36-2-11-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 25. (a) This section applies to:
   (1) a lien arising under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq. (commonly known as the Superfund Law); and
   (2) any other federal lien on real property or any federal tax lien on personal property provided for in the statutes or regulations of the United States.

In order for a lien covered by this section to be perfected, notice of the lien must be filed in the office of the recorder of the county in which the real or personal property subject to the lien is located.
(b) When a notice of a lien covered by this section is presented to the recorder for filing, the recorder shall enter it appropriately in the entry book and in the miscellaneous record. The entries made under this subsection must show the date of filing, the book and page number or instrument number, the name of the person named in the notice, a legal description of the property, if appropriate, and any serial number or other identifying number given in the notice.
(c) When a certificate of discharge of a federal lien covered by this section is issued by the proper officer and presented for filing in the office of the recorder of the county where the notice of lien was filed, the recorder shall record the certificate of discharge as a release of the lien. However, to be recorded under this subsection, the certificate must refer to the recorder's book and page number or instrument number under which the lien was recorded.
(d) When recording a release of a lien under subsection (c), the recorder shall inscribe, in the margin of each entry made to record the lien under subsection (a), a reference to the place where the release is recorded.
(e) Upon the recording of the certificate of discharge as a release under subsection (c) and the inscribing of the references to the release under subsection (d), a certificate of discharge of a lien covered by this section operates as a full discharge and satisfaction of the lien, unless the references to the release inscribed under subsection (d) specifically note the release as a partial lien release.
(f) A federal lien on real property and a federal tax lien on personal property are not subject to the:
   (1) requirement to redact Social Security numbers as described in IC 36-2-7.5-1.5; or
   (2) requirements to include statements in a recorded or filed instrument as described in section 15(e) and 15(d) of this chapter.

SECTION 23. IC 36-2-11-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 27. (a) A payment to the county recorder for any purpose may be made by any of the following financial instruments that the county recorder authorizes to use:
   (1) Cash.
   (2) Check.
   (3) Bank draft.
   (4) Money order.
   (5) Bank card or credit card.
   (6) Electronic funds transfer.
   (7) Any other financial instrument authorized by the county recorder.
(b) If there is a charge to the county recorder for the use of a financial instrument other than a bank card or credit card, the county recorder shall collect a sum equal to the amount of the charge from the person who uses the financial instrument.
(c) The county recorder may contract with a bank card or credit card vendor for acceptance of bank cards or credit cards. A payment made under this chapter does not finally discharge the person's liability, and the person has not paid the liability until the county recorder receives payment or credit from the institution responsible for making the payment or credit. Subject to subsection (e), if there is a vendor transaction card or discount fee, whether billed to the county recorder or charged directly to the county recorder's account, the county recorder shall collect a fee from the person using the bank card or credit card. The fee is a permitted charge under IC 24-4.5-3-202.
(d) Subject to subsection (e), the county recorder may contract with a payment processing company, which may collect a transaction fee from the person using the bank card or credit card.
(e) The county recorder shall collect and deposit in the appropriate fund an amount not less than the amount the county recorder would collect and deposit if the county recorder received payment by a means other than a bank card or credit card.
(f) Funds described in subsection (c) may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.

SECTION 24. An emergency is declared for this act.

CONFERENCE COMMITTEE REPORT

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

CONGRESS COMMITTEE REPORT

EHB 1029—1; filed March 13, 2006, at 8:54 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 1029 respectfully reports that said two committee have conferred and agreed as follows to wit:

An emergency is declared for this act.

EHB 1114 as reprinted March 3, 2006.

FOLEY STEELE
VAN HAAFTEN BRODEN
House Conference Senate Conference

Mr. Speaker: Your Committee on Ways and Means have the following report to submit to the House:

An emergency is declared for this act.

Mr. Speaker: Your Committee on Rules have the following report to submit to the House:

An emergency is declared for this act.

Engrossed House Bill 1029—1, on emergency, is now before the House.

An emergency is declared for this act.

FOLEY STEELE
VAN HAAFTEN BRODEN
House Conference Senate Conference

An emergency is declared for this act.

An emergency is declared for this act.

An emergency is declared for this act.

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An emergency is declared for this act.
payable out of the revenues or funds of the bank, subject only to agreements with the holders of a particular series of bonds or notes pledging a particular revenue or fund. Bonds or notes may be additionally secured by a pledge of a grant or contributions from the United States, a qualified entity, or a person or a pledge of income or revenues, funds, or money of the bank from any source.

(c) Notwithstanding subsections (a) and (b), the total amount of bank bonds and notes outstanding at any one (1) time, except:

(1) bonds or notes issued to fund or refund bonds or notes; and
(2) bonds or notes issued for the purpose of purchasing an agreement executed by a qualified entity under IC 21-1-5; may not exceed one billion dollars ($1,000,000,000) for qualified entities described in IC 5-1.5-1-8(1) through IC 5-1.5-1-8(4) and IC 5-1.5-1-8(8) through IC 5-1.5-1-8(11).

(d) Notwithstanding subsections (a) and (b), the total amount of bank bonds and notes outstanding at any one (1) time, except bonds or notes issued to fund or refund bonds or notes, may not exceed two hundred million dollars ($200,000,000) for qualified entities described in IC 5-1.5-1-8(5) through IC 5-1.5-1-8(6).

(e) Notwithstanding subsections (a) and (b), the total amount of bank bonds and notes outstanding at any one (1) time, except bonds or notes issued to fund or refund bonds or notes, may not exceed thirty million dollars ($30,000,000) for qualified entities described in IC 5-1.5-1-8(7).

(f) The limitations contained in subsections (c), (d), and (e) do not apply to bonds, notes, or other obligations of the bank if:

(1) the bonds, notes, or other obligations are not secured by a reserve fund under IC 5-1.5-5; or
(2) funds and investments, and the anticipated earned interest on those funds and investments, are irrevocably set aside in amounts sufficient to pay the principal, interest, and premium on the bonds, notes, or obligations at their respective maturities or on the date or dates fixed for redemption.

SECTION 2. IC 5-1.5-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Every qualified entity is authorized and empowered to contract with the bank with respect to the loan or purchase of its securities, and the contracts shall contain the terms and conditions of the loan or purchase and may be in any form agreed to by the bank and the qualified entity, including a customary form of bond ordinance or resolution. Every qualified entity is authorized and empowered to pay fees and charges required to be paid to the bank for its services.

(b) Notwithstanding any statute applicable to or constituting any limitation on the sale of bonds or notes or on entry into an agreement, any qualified entity may sell its securities to the bank, without limitation as to denomination, at a price at which the price or prices as may be determined by the bank and the qualified entity.

(c) Notwithstanding any law that applies to or constitutes a limitation on the leasing or disposition of materials or other property, and subject to subsection (d), any qualified entity, or any purchasing agency (as defined in IC 5-22-2-25) of a qualified entity, may:

(1) assign or sell a lease or purchase contract for property to the bank; or
(2) enter into a lease or purchase contract for property with the bank; or
(3) buy property from or sell property to the bank; at any price and under any other terms and conditions as may be determined by the bank and the qualified entity. However,

(d) This subsection does not apply to a school corporation that buys or leases a school bus from the bank under IC 5-1.5-4-1(a)(5). Before making taking an assignment or sale of a lease or entering into a lease action described under this subsection (c)(1) through (c)(3) that would otherwise be subject to IC 5-22, the a qualified entity or its purchasing agent must obtain or cause to be obtained a purchase price for the property to be subject to the sale, purchase contract, or the lease from the lowest responsible and responsive bidder in accordance with the requirements for the purchase of supplies under IC 5-22.

SECTION 3. IC 6-1-1-19-8, AS AMENDED BY P.L.1-2005, SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A school corporation must file a petition requesting approval from the department of local government finance to incur bond indebtedness, enter into a lease rental agreement, or 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. 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.

This restriction does not apply to ad valorem property taxes which 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.

(b) The department of local government finance may either approve, disapprove, or modify then approve a school corporation’s proposed lease rental agreement, bond issue or school bus purchase loan. Before it approves or disapproves a proposed lease rental agreement, bond issue or school bus purchase loan, the department of local government finance may seek the recommendation of the tax control board.

(c) The department of local government finance shall render a decision not more than three (3) months after the date it receives a request for approval under subsection (a). However, the department of local government finance may extend this three (3) month period by an additional three (3) months if, at least ten (10) days before the end of the original three (3) month period, the department sends notice of the extension to the executive officer of the school corporation. A school corporation may petition for judicial review of the final determination of the department of local government finance under this section. The petition must be filed in the tax court not more than forty-five (45) days after the department enters its order under this section.

(d) After December 31, 1995, the department of local government finance may not approve a school corporation’s proposed lease rental agreement or bond issue to finance the construction of additional classrooms unless the school corporation first:

(1) establishes that additional classroom space is necessary; and
(2) conducts a feasibility study, holds public hearings, and hears public testimony on using a twelve (12) month school term (instead of the nine (9) month school term (as defined in IC 20-30-2-7)) rather than expanding classroom space.

(e) This section does not apply to school bus purchase loans made by a school corporation which will be repaid solely from the general fund of the school corporation.

(f) A taxpayer may petition for judicial review of the final determination of the department of local government finance under this section. The petition must be filed in the tax court not more than thirty (30) days after the department enters its order under this section.

SECTION 4. IC 6-3-3-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 12. (a) As used in this section, "college choice 529 education savings plan" refers to a college choice 529 investment plan established under IC 21-9.

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

(1) an individual filing a single return; or
(2) a married couple filing a joint return.

(c) A taxpayer is entitled to a credit against the taxpayer’s adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for a taxable year equal to the least of the following:

(1) Twenty percent (20%) of the amount of each contribution made by the taxpayer to a college choice 529 education savings plan during the taxable year.
(2) One thousand dollars ($1,000).
(3) The amount of the taxpayer’s adjusted gross income tax
imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by IC 6-3-1 through IC 6-3-7.

(d) A taxpayer is not entitled to a carryback, carryover, or refund of an unused credit.

(e) A taxpayer may not sell, assign, convey, or otherwise transfer the tax credit provided by this section.

(f) To receive the credit provided by this section, a taxpayer must claim the credit on the taxpayer’s annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department all information that the department determines is necessary for the calculation of the credit provided by this section.

SECTION 5. IC 20-12-6-7 is amended to read as follows [effective upon passage]: Sec. 7. (a) Subject to subsections 16 and 17 of this chapter, bonds may be issued in an amount or amounts that do not exceed the maximum amount determined by the governing board of the issuing corporation.

(b) The bonds may be issued in the form and upon the terms and conditions, at the rate or rates of interest, and in the denominations which may be made convertible into different denominations as the governing board of the corporation may determine by the adoption of a resolution or approval of a form of trust indenture between the corporation and a designated corporate trustee, or both.

(c) The resolution or the indenture may include provisions for:
   (1) protecting and enforcing the rights and remedies of the holders of the bonds being issued;
   (2) covenants setting forth the duties of the corporation and its officers in relation to the acquisition, construction, operation, maintenance, use, and abandonment of the building facility, and insurance thereof;
   (3) the custody, safeguarding, application, and investment of all money;
   (4) the rights and remedies of the trustee and the holders of the bonds being issued;
   (5) the issuance of additional bonds as provided in the resolution or indenture; and
   (6) other terms, conditions, and covenants as the governing board of the corporation determines are proper, including provision for the establishment of a debt service reserve by:
      (A) the use of bond proceeds or other sources;
      (B) the furnishing of an insurance policy, surety bond, or letter of credit; or
      (C) any combination of clause (A) or (B).

(d) The bonds shall be sold at public or negotiated sale as provided by IC 4-1-5.

(e) All bonds and the interest coupons appertaining to the bonds issued under this chapter shall be negotiable instruments within the meaning and for all purposes under the laws of this state, subject only to the provisions of the bonds for registration as to principal or as to interest. Any bonds registered as to principal and interest may be made convertible to bearer bonds with coupons.

(f) No action to contest the validity of any bonds issued under this chapter shall be brought after the fifteenth day following:
   (1) the first publication of notice of the sale or intent to sell the bonds under IC 4-1-5, if the bonds are sold at public sale; or
   (2) the publication one (1) time in newspapers described in IC 4-1-5-1 of notice of execution and delivery of the contract of sale for the bonds, if the bonds are sold at negotiated sale.

(g) The corporation shall publish notice under subsection (f)(2) if it sells bonds at negotiated sale within thirty (30) days of execution of the contract of sale for the bonds.

(h) The rate or rates of interest of the bonds may be fixed or variable. Variable rates shall be determined in the manner and in accordance with the procedures set forth in the resolution or indenture authorizing the issuance of the bonds. Bonds bearing a variable rate of interest may be converted to bonds bearing a fixed rate or rates of interest to the extent and in the manner set forth in the resolution or indenture pursuant to which the bonds are issued. The interest may be payable semiannually, annually, or at any other interval or intervals as may be provided in the resolution or indenture, or the interest may be compounded and paid at maturity or at any other times as specified in the resolution or indenture.

(i) The bonds may be made subject, at the option of the holders, to mandatory redemption by the corporation at the times and under the circumstances set forth in the authorizing resolution or indenture.

(j) A resolution or the indenture may contain provisions regarding the investment of money, sale, exchange, or disposal of property and the manner of authorizing and making payments, notwithstanding IC 5-13 or any general statute relating to these matters.

SECTION 6. IC 20-12-6-13 is amended to read as follows [effective upon passage]: Sec. 13. The term "bond" or "bonds" as used in this chapter means any bonds (including refunding bonds), notes, temporary, interim, or permanent certificates of indebtedness, debentures, or other obligations evidencing indebtedness for borrowed money. The term does not include installment contracts or similar instruments under section 2 of this chapter.

SECTION 7. IC 20-12-6-17 is amended to read as follows [effective upon passage]: Sec. 17. (a) Except for notes issued under section 8.5 of this chapter and except as provided in subsections (d) and (e) through (g), no bonds shall be issued for a project by the corporations under this chapter unless the general assembly:
   (1) has specifically approved the project to be financed through the issuance and sale of these bonds; and
   (2) has provided the amount of bonds which may be issued to fund the costs of acquiring, constructing, remodeling, renovating, furnishing, or equipping the specific project approved.

(b) In addition to and in connection with the amount of bonds that may be issued by a corporation for a specific project as provided in subsection (a)(2), the corporations may also issue bonds in amounts necessary to provide funds for debt service reserves, bond or reserve insurance, and other costs without additional approval by the general assembly, if these costs are incidental to the issuance of bonds for the project.

(c) The bonds, regardless of when the amount of bonds was approved by the general assembly, may be issued in an amount not exceeding:
   (1) the amount of bonds approved by the general assembly together with the amounts described in subsection (b); plus
   (2) the amount of the discount below par value, if bonds are sold at a price below par value under IC 4-1-5-1.

(d) As used in this subsection, "fee replacement" means payments to a corporation to be used to pay indebtedness resulting from financing the cost of planning, purchasing, rehabilitation, construction, repair, leasing, lease-purchasing, or otherwise acquiring land, buildings, facilities, and equipment to be used for academic and instructional purposes. A power granted under this section to issue bonds without the specific approval of the general assembly shall not be construed to permit the issuance of the bonds without the specific approvals required under section 16 of this chapter. Bonds issued without the specific approval of the general assembly are not eligible for fee replacement.

(e) Bonds may be issued by a corporation without the approval of the general assembly if, after the issuance, the total amount of outstanding bonds issued by the corporation without approval will not exceed one million dollars ($1,000,000) ($2,000,000). However, the bonds must be approved as provided in section 16 of this chapter.

(f) Bonds may be issued by a corporation without the approval of the general assembly to finance a qualified energy savings project (as defined in IC 20-12-5.5) if annual operating savings to the corporation arising from the implementation of a qualified energy savings project are reasonably expected to be at least equal to annual debt service requirements on bonds issued for this purpose in each fiscal year. However, the amount of bonds that may be issued for outstanding for the corporation at any time for qualified energy savings projects, other than refunding bonds and exclusive of costs described in subsections (b) and (c), does not exceed ten million dollars ($10,000,000).

(g) Bonds may be issued by the trustees of Purdue University without the approval of the general assembly for deferred expenditures, as determined under accounting principles approved by the state board of accounts, to:
(1) repair, rehabilitate, remodel, renovate, or reconstruct existing facilities or buildings;
(2) improve or replace utilities or fixed equipment; or
(3) perform related site improvement work.

However, the total amount of bonds issued for the corporation under this subsection without the approval of the general assembly, other than refunding bonds and exclusive of costs described in subsections (b) and (c), may not exceed sixty million dollars ($60,000,000).

SECTION 8. IC 20-12-7-7, AS AMENDED BY P.L.235-2005, SECTION 196, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) No bonds shall be issued by the respective trustees under the provisions of this chapter without the specific approval of:

(1) the budget agency, if the bonds are issued for the refunding or advance refunding of any outstanding bonds approved as required by this chapter and the institution makes the findings described in subsection (b); and
(2) the budget committee, budget agency, and the governor, if subdivision (1) does not apply.

The budget agency may request and consider the recommendation of the staff of the Indiana finance authority with respect to the approval of a bond issue under this section.

(b) An institution may provide for refunding or advance refunding of any outstanding bonds under subsection (a)(1) whenever the board of trustees of the institution finds that the refunding or advance refunding will effect a benefit to the institution because:

(1) a net savings to the institution will be effected; or
(2) the net present value of principal and interest payments on the bonds is less than the net present value of the principal and interest payments on the outstanding bonds to be refunded.

SECTION 9. IC 20-12-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The trustees of Indiana University, the trustees of Purdue University, Indiana State University board of trustees, the University of Southern Indiana board of trustees, and the Ball State University board of trustees are authorized and empowered, from time to time, if the governing boards of these corporations find that a necessity exists, to erect, construct, reconstruct, extend, remodel, improve, complete, equip, furnish, operate, control, and manage:

(1) dormitories and other housing facilities for single and married students and school personnel;
(2) food service facilities;
(3) student infirmaries and other health service facilities including revenue-producing hospital facilities serving the general public, together with parking facilities and other appurtenances in connection with any of the foregoing; or
(4) parking facilities in connection with academic facilities; or
(5) medical research facilities associated with a school of medicine; if the facilities will generate revenue from state, federal, local, or private gifts, grants, contractual payments; or reimbursements in an amount that is reasonably expected to at least equal the annual debt service requirements of the bonds for the facility for each fiscal year that the bonds are outstanding; at or in connection with Indiana University, Purdue University, Indiana State University, the University of Southern Indiana, and Ball State University, for the purposes of the respective institutions. These

(b) The trustees of Indiana University and the trustees of Purdue University may, from time to time, if the governing boards of these corporations find that a necessity exists, erect, construct, reconstruct, extend, remodel, improve, complete, equip, furnish, operate, control, and manage facilities used for clinical, medical, scientific, engineering, or other similar qualitative, quantitative, or experimental research, if revenue from state, federal, local, or private gifts, grants, contractual payments, or reimbursements is available in an amount that is reasonably expected to at least equal the annual debt service requirements of the bonds and the costs to operate the facility for each fiscal year that the bonds are outstanding at or in connection with any of the following campuses of Indiana University or Purdue University:

(1) Purdue University-West Lafayette Campus.
(2) Indiana University-Purdue University at Indianapolis (IUPUI).
(3) Indiana University-Bloomington Campus.

Neither student fees nor money appropriated by the general assembly may be used to pay the debt service requirements or the maintenance expenses of a facility described in this subsection.

(c) The corporations described in subsection (a) or (b) are also authorized to acquire, by purchase, lease, condemnation, gift or otherwise, any property, real or personal, that in the judgment of these corporations is necessary for the purposes set forth in this section. The corporations may improve and use any property acquired for the purposes set forth in this section.

(d) Title to all property so acquired, including the improvements located on the property, shall be taken and held by and in the name of the corporations. If the governing board of any of these corporations determines that real estate, the title to which is in the name of the state, for the use and benefit of the corporation or institution under its control, is reasonably required for any of the purposes set forth in this section, the real estate may, upon request in writing of the governing board of the corporation to the governor of the state and upon the approval of the governor, be conveyed by deed from the state to the corporation. The governor shall be authorized to execute and deliver the deed in the name of the state, signed on behalf of the state by the governor, attested by the auditor of state and with the seal of the state affixed to the deed.

SECTION 10. IC 20-12-8-7, AS AMENDED BY P.L.235-2005, SECTION 197, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) No bonds shall be issued by the corporations under the provisions of this chapter without the specific approval of:

(1) the budget agency, if the bonds are issued for the refunding or advance refunding of any outstanding bonds approved as required by this chapter and the corporation makes the findings described in subsection (b); and
(2) the budget committee, budget agency, and the governor, if subdivision (1) does not apply.

The budget agency may request and consider the recommendation of the staff of the Indiana finance authority with respect to the approval of a bond issue under this section.

(b) A corporation may provide for refunding or advance refunding of any outstanding bonds under subsection (a)(1) whenever the board of trustees of the corporation finds that the refunding or advance refunding will effect a benefit to the corporation because:

(1) a net savings to the corporation will be effected; or
(2) the net present value of principal and interest payments on the bonds is less than the net present value of the principal and interest payments on the outstanding bonds to be refunded.

SECTION 11. [EFFECTIVE JULY 1, 2006] The trustees of Indiana State University may issue and sell bonds under IC 20-12-6, subject to the approvals required by IC 20-12-5.5, for the purpose of constructing, furnishing, and equipping the Student Recreation Center Project, if the sum of principal costs of any bond issued, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed twenty-four million dollars ($24,000,000). The project is not eligible for fee replacement or plant expansion funding.

SECTION 12. [EFFECTIVE JULY 1, 2006] The trustees of Ball State University may issue and sell bonds under IC 20-12-6, subject to the approvals required by IC 20-12-5.5, for the purpose of renovation and expansion of a recreation center, if the sum of principal costs of any bond issued, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed thirty-nine million dollars ($39,000,000). The project is not eligible for fee replacement or plant expansion funding.

SECTION 13. [EFFECTIVE JULY 1, 2006] The trustees of the University of Southern Indiana may issue and sell bonds under IC 20-12-6, subject to the approvals required by IC 20-12-5.5, for
the purpose of constructing, furnishing, and equipping a university center expansion, if the sum of principal costs of any bond issued, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed four million dollars ($4,000,000). The project is not eligible for fee replacement or plant expansion funding.

SECTION 14. [EFFECTIVE JANUARY 1, 2007] IC 6-3-3-12, as added by Act 45, 2006, applies to tax years beginning after December 31, 2006.

SECTION 15. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 20-12-1-12, a state educational institution that did not set 2006-2007 tuition and fee rates for:
(1) nonresident undergraduate students; and
(2) resident and nonresident graduate and professional students;
at the time that the state educational institution set resident undergraduate tuition and fee rates, is authorized to set tuition and fee rates for students described in subdivisions (1) and (2) for the 2006-2007 year only. The percentage increase for the 2006-2007 tuition and fee rates set under this SECTION may not exceed the percentage increase set for 2005-2006.

(b) A state educational institution shall hold a public hearing before setting any tuition and fee rates under this SECTION. The state educational institution shall give public notice of the hearing at least ten (10) days before the hearing. The public notice must include the specific proposal for tuition and fee rate increases and the expected uses of the revenue to be raised by the proposed increases. The hearing shall be held on or before May 15, 2006.

(c) This SECTION expires June 30, 2006.

SECTION 16. An emergency is declared for this act.

(Reference is to EHB 1029 as reprinted March 1, 2006.)

BUELL KENLEY
KLINDER SIMPSON
House Conferences Senate Conferences

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 10:20 p.m. with the Speaker in the Chair.

Representative Grubb was excused for the rest of the day.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
EHB 1392–1; filed March 13, 2006, at 9:29 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 1392 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 21-10-2-1, AS ADDED BY HEA 1006-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. A school corporation individually, in collaboration with other school corporations, and through the educational services centers may undertake action to reduce noninstructional expenditures and allocate the resulting savings to student instruction and learning. Actions taken under this section include the following:

(1) Pooling of resources with other school corporations for liability insurance, property and casualty insurance, worker's compensation insurance, employee health insurance, vision insurance, dental insurance, or other insurance, whether by pooling risks for coverage or for the purchase of coverage, or by the creation of or participation in insurance programs, trusts, subject to the following:

(A) School corporations that elect to pool property and casualty risks assets for insurance coverage must create a trust under Indiana law for the assets. The trust is subject to regulation by the department of insurance as follows:

(i) The program trust must register be registered with the department of insurance.

(ii) The program trust shall obtain both specific and aggregate levels of stop loss insurance issued by an insurer authorized to do business in Indiana each with an aggregate retention level of an amount approved by the department of insurance: not more than one hundred twenty-five percent (125%) of the amount of expected claims for the following year.

(iii) Contributions by the school corporations must be set at a level approved by the department of insurance: one hundred percent (100%) of the aggregate retention plus all other costs of the trust.

(iv) Each program trust shall submit an actuarial study of a type and nature maintain a fidelity bond in an amount approved by the department of insurance. The program trust shall pay the costs of the actuarial study: Each program shall exceed the hundred percent (100%) of the actuarial study's projection for annual losses; plus the fixed costs of the program; fidelity bond must cover each person responsible for the trust for acts of fraud or dishonestly in servicing the trust.

(v) The program trust is subject to IC 27-4-1-4.5 regarding claims settlement practices.

(vi) The program trust shall file an annual financial statement in the form required by the department of insurance IC 27-1-3-13 not later than one hundred twenty (120) days after the end of the program's fiscal March 1 of each year.

(vii) The program trust is not covered by the Indiana insurance guaranty fund created under IC 27-6-8. The liability of each school corporation is joint and several.

(viii) The program trust is subject to examination by the department of insurance. All costs associated with an examination shall be borne by the program trust.

(ix) The department of insurance may deny, suspend, or revoke the registration of a program trust if the commissioner finds that the program trust is in a hazardous financial condition, the program trust refuses to be examined or produce records for examination, or the program trust has failed to pay a final judgment rendered against the trust by a court within thirty (30) days.

(B) The department of insurance may adopt rules under IC 4-22-2 to implement this subdivision.

(2) Each school corporation, and more than one (1) school corporation acting jointly, may elect to aggregate purchases of natural gas commodity supply from any available natural gas commodity seller for all schools included in the aggregated purchases. A rate schedule that is:

(A) filed by a natural gas utility; and

(B) approved by the Indiana utility regulatory commission; must include provisions that allow a school corporation or school corporations acting jointly to elect to make aggregated purchases of natural gas commodity supply. Upon request from a school corporation, a natural gas utility shall summarize the rates and charges for providing services to each school in the school corporation on one (1) summary bill for remitting payment to the utility.

(3) Consolidating purchases with other school corporations or units of government of the following:

(A) School buses and other vehicles and vehicle fleets.

(B) Fuel, maintenance, or other services for vehicles or vehicle fleets.

(C) Food services.

(D) Facilities management services.

(E) Transportation management services.

(F) Textbooks, technology, and other school materials and
supplies.

(G) Any other purchases a school corporation may require. Purchases may be made by contiguous school corporations, as part of regional consolidated purchasing arrangements, or from consolidated sources under multistate cooperative bidding arrangements.

SECTION 2. IC 27-1-12.7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. Notwithstanding any other provision of law:

(1) the commissioner has the sole authority to regulate the issuance and sale of funding agreements;

(2) a funding agreement is not considered a covered policy under IC 27-8-8-1(a) or IC 27-8-8-2.3(d); and

(3) a claim for payments under a funding agreement must be treated as a loss claim described in Class 2 of IC 27-9-3-40.

SECTION 3. IC 27-1-15.6-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 22. (a) An insurance producer may not receive compensation for the sale, solicitation, negotiation, or renewal of any insurance policy issued to any person or entity for whom the insurance producer, for a fee, acts as a consultant for that policy unless:

(1) the insurance producer provides to the insured a written agreement in accordance with section 25(e) of this chapter; and

(2) the insurance producer discloses to the insured the following information prior to the sale, solicitation, negotiation, or renewal of any policy:

(A) The fact that the insurance producer will receive compensation for the sale of the policy.

(B) The method of compensation.

(b) The requirements of this subsection are in addition to the requirements set forth in subsection (a). A risk manager described in IC 27-1-22-2.5(b)(2) shall, before providing risk management services to an exempt commercial policyholder (as defined in IC 27-1-22-2.5); disclose in writing to the exempt commercial policyholder whether the risk manager will receive or expects to receive any commission, fee, or other consideration from an insurer in connection with the purchase of a commercial insurance policy by the exempt commercial policyholder. However, if the risk manager charges the exempt commercial policyholder a fee for risk management services, the risk manager shall disclose in writing to the exempt commercial policyholder the specific amount of any commission, fee, or other consideration that the risk manager may receive from an insurer in connection with the purchase of the policy. The risk manager shall, before providing the risk management services, obtain from the exempt commercial policyholder a written acknowledgment of the disclosures made by the risk manager to the exempt commercial policyholder under this subsection.

SECTION 4. IC 27-1-15.6-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 23. (a) An individual or corporation shall not engage in the business of an insurance consultant until a consultant license has been issued to the individual or corporation by the commissioner. However, a consultant license is not required for the following:

(1) An attorney licensed to practice law in Indiana acting in the attorney's professional capacity.

(2) A duly licensed insurance producer or surplus lines producer.

(3) A trust officer of a bank acting in the normal course of the trust officer's employment.

(4) An actuary or a certified public accountant who provides information, recommendations, advice, or services in the actuary's or certified public accountant's professional capacity.

(b) An application for a license to act as an insurance consultant shall be made to the commissioner on forms prescribed by the commissioner. An applicant may limit the scope of the applicant's consulting services by stating the limitation in the application. The areas of allowable consulting services are:

(1) Class 1, consulting regarding the kinds of insurance specified in IC 27-1-5-1, Class 1; and

(2) Class 2 and Class 3, consulting regarding the kinds of insurance specified in IC 27-1-5-1, Class 2 and Class 3.

Within a reasonable time after receipt of a properly completed application form, the commissioner shall hold a written examination for the applicant that is limited to the type of consulting services designated by the applicant, and may conduct investigations and propound interrogatories concerning the applicant's qualifications, residence, business affiliations, and any other matter that the commissioner considers necessary or advisable in order to determine compliance with this chapter or for the protection of the public.

(c) For purposes of this subsection, "consultant's fee" does not include a late fee charged under section 24 of this chapter or fees otherwise allowed by law. A consultant shall provide consultant services as outlined in a written agreement. The agreement must be signed by the person receiving services, and a copy of the agreement must be provided to the person receiving services before any services are performed. The agreement must outline the nature of the work to be performed by the consultant and the method of compensation of the consultant. The signed agreement must be retained by the consultant for not less than two (2) years after completion of the services. A copy of the agreement shall be made available to the commissioner. In the absence of an agreement on the consultant's fee, the consultant shall not be entitled to recover a fee in any action at law or in equity.

(d) An individual or corporation shall not concurrently hold a consultant license and an insurance producer's license, surplus lines producer's license, or limited lines producer's license at any time.

(e) A licensed consultant shall not:

(1) employ;

(2) be employed by;

(3) be in partnership with; or

(4) receive any remuneration whatsoever;

from a licensed insurance producer, surplus lines producer, or limited lines producer or insurer, except that a consultant may be compensated by an insurer for providing consulting services to the insurer.

(f) A consultant license shall be valid for not longer than twenty-four (24) months and may be renewed and extended in the same manner as an insurance producer's license. The commissioner shall designate on the license the consulting services that the licensee is entitled to perform.

(g) All requirements and standards relating to the denial, revocation, or suspension of an insurance producer's license, including penalties, apply to the denial, revocation, and suspension of a consultant license as nearly as practicable.

(h) A consultant is obligated under the consultant's license to:

(1) serve with objectivity and complete loyalty solely the insurance interests of the consultant's client; and

(2) render the client such information, counsel, and service as within the knowledge, understanding, and opinion, in good faith of the licensee, best serves the client's insurance needs and interests.

(i) Except as provided in subsection (j), the form of a written agreement required by subsection (c) must be filed with the commissioner not less than thirty (30) days before the form is used. If the commissioner does not expressly approve or disapprove the form within thirty (30) days after filing, the form is considered approved. At any time after notice and for cause shown, the commissioner may withdraw approval of a form effective thirty (30) days after the commissioner issues notice that the approval is withdrawn.

(j) Subsection (i) does not apply to the form of a written agreement under subsection (c) that is executed by an insurance producer and an exempt commercial policyholder (as defined in IC 27-1-22-2.5).

SECTION 5. IC 27-1-17-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. Whenever a foreign or an alien insurance company desires to be admitted to do an insurance business in this state, it shall execute in the English language and present the following to the department, at its office, accompanied by the fees prescribed by law.

(1) A copy of its articles of incorporation or association, with all amendments thereto, duly authenticated by the proper officer of the state, country, province, or government wherein it is incorporated or organized, or the state in which it is domiciled in the United States.

(2) An application for admission, executed in the manner provided in this chapter, setting forth:
the names of the states in which it has been admitted or qualified to do business;

(4) the character of insurance business under its articles of incorporation or association which it intends to transact in this state, which must conform to the class or classes set forth in the provisions of IC 27-1-5-1;

(5) the total authorized capital stock of the company and the amount thereof issued and outstanding, and the surplus required of such company by the laws of the state, country, province, or government under which it is organized, or the state in which it is domiciled in the United States, if a stock company, which shall equal at least the requirements set forth in section 5(a) of this chapter;

(6) the total amount of assets and the surplus of assets over all its liabilities, if other than a stock company, which shall equal at least the requirements set forth in section 5(b) of this chapter;

(7) if an alien company, the surplus of assets invested according to the laws of the state in the United States where it has its deposit, which shall equal at least the requirements set forth in section 5(c) of this chapter; and

(8) such further and additional information as the department may from time to time require.

The application shall be signed in duplicate, in the form prescribed by the department, by the president or a vice president and the secretary or an assistant secretary of the corporation, and verified under oath by the officers signing the same.

(3) A statement of its financial condition and business, in the form prescribed by law for annual statements, signed and sworn to by the president or secretary or other principal officers of the company; provided, however, that an alien company shall also furnish a separate statement comprising only its condition and business in the United States, which shall be signed and sworn to by its United States manager.

(4) A copy of the last report of examination certified to by the insurance commissioner or other proper supervisory official of the state in which such company is domiciled; provided, however, that the commissioner may cause an examination to be made of the condition and affairs of such company before authority to transact business in this state is given.

(5) A certificate from the proper official of the state, country, province, or government wherein it is incorporated or organized, or the state in which it is domiciled in the United States, that it is duly organized or incorporated under those laws and authorized to make the kind or kinds of insurance which it proposes to make in this state.

(6) A copy of its bylaws or regulations, if any, certified to by the secretary or similar officer of the insurance company.

(7) A duly executed power of attorney in a form prescribed by the department which constitutes and appoints an individual or a corporate resident of Indiana, or an authorized Indiana insurer, as the insurance company's agent, its true and lawful attorney upon whom, except as provided in section 4.2 of this chapter, all lawful processes in any action in law or in equity against it shall be served. Such power of attorney shall contain an agreement by the insurance company that any lawful process against it which may be served upon the agent as its attorney shall be of the same force and validity as if served upon the insurance company and that such power of attorney shall continue in force and be irrevocable so long as any liability of the insurance company remains outstanding in this state. Such power of attorney shall be executed by the president and secretary of the insurance company or other duly authorized officers under its seal and shall be accompanied by a certified copy of the resolution of the board of directors of the company making said appointment and authorizing the execution of said power of attorney. Service of any lawful process shall be by delivering to and leaving with the agent two (2) copies of such process, with copy of the pertinent complaint attached. The

agent shall forthwith transmit to the defendant company at its last known principal place of business by registered or certified mail, return receipt requested, one (1) of the copies of such process, with complaint attached, the other copy to be retained in a record which shall show all process served upon and transmitted by him. Such service shall be sufficient provided the returned receipt or, if the defendant company shall refuse to accept such mailing, the registered mail together with an answer or other pleading or answer to the complaint shall be transmitted by him to the defendant company at its last known principal place of business by registered or certified mail, return receipt requested. Nothing in this section shall limit or abridge the right to serve any process, notice or demand upon any company in any other manner permitted by law.

(8) Proof which satisfies the department that it has complied with the financial requirements imposed in this chapter upon foreign and alien insurance companies which transact business in this state and that it is entitled to public confidence and that its admission to transact business in this state will not be prejudicial to public interest.

SECTION 6. IC 27-1-17-4.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4.2. (a) A foreign or alien insurance company that provides a surety bond that is required or permitted under the law of the United States shall execute a power of attorney in a form prescribed by the department irrevocably appointing the commissioner as the insurance company's agent for service of process in an action on the surety bond if the:

(1) surety bond was provided in Indiana; and

(2) service of process under this section is in addition to another method of service of process authorized by law or court rule.

(b) Service of process under this section has the same effect as personal service on the insurance company.

(c) Upon receipt of process described in this section, the commissioner shall forward the process to the resident agent designated by the insurance company under section 4(7) of this chapter.

(d) The commissioner may adopt rules under IC 4-22-2 to establish reasonable fees for the acceptance of process described in this section. Fees collected under rules adopted under this subsection must be deposited in the department of insurance fund established by IC 27-1-3-28.

SECTION 7. IC 27-1-22-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.5. (e) As used in this chapter, "exempt "commercial policyholder" means an entity that

(1) makes written certification to the entity's insurer on a form prescribed by the department that the entity is an exempt commercial policyholder;

(2) has purchased the policy of commercial insurance through an insurance producer licensed under IC 27-1-15.6 or IC 27-1-15.8 and

(3) meets any three (3) of the following criteria:

(A) Has a net worth of more than twenty-five million dollars ($25,000,000) at the time the policy of insurance is issued;

(B) Has a net income of sales of more than thirty million dollars ($30,000,000) in the preceding fiscal year;

(C) Has more than twenty-five (25) employees per individual company or fifty (50) employees per holding company aggregate at the time the policy of insurance is issued;

(D) Has aggregate annual commercial insurance premiums, excluding any worker's compensation and professional liability insurance premiums, of more than seventy-five thousand dollars ($75,000) in the preceding fiscal year;

(E) Is a nonprofit or a public entity with an annual budget of
The commissioner’s hall have the right to request any additional entity meets the written certification requirement under are within the scope of its membership or subscriber ship, provided:

(a) The risk manager may be:

(1) a full-time employee of an exempt commercial policyholder who is qualified through education and experience or training and experience; or

(2) a person retained by an exempt commercial policyholder who holds a professional designation relevant to the type of insurance to be purchased by the exempt commercial policyholder.

SECTION 8. IC 27-1-22-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) Every insurer shall file with the commissioner every manual of classifications, rules, and rates, every rating plan, and every modification of any of the foregoing it proposes to use.

(b) The following types of insurance are exempt from the requirements of subsections (a) and (j):

(1) Inland marine risks, which by general custom of the business are not written according to manual rates or rating plans.

(2) Insurance, other than workers compensation insurance, or professional liability insurance; that is:

(A) written by an insurer that:

(i) complies with subsection (m); and

(ii) maintains at least a B rating by A.M. Best or an equivalent rating by another independent insurance rating organization; and

(B) issued to exempt commercial policyholders.

(c) Every such filing shall indicate the character and extent of the coverage contemplated and shall be accompanied by the information upon which the filer supports such filing.

(d) The information furnished in support of a filing may include:

(1) the experience and judgment of the insurer or rating organization making the filing;

(2) its interpretation of any statistical data it relies upon;

(3) the experience of other insurers or rating organizations; or

(4) any other relevant factors.

The commissioner shall have the right to request any additional relevant information. A filing and any supporting information shall be open to public inspection as soon as stamped "filed" within a reasonable time after receipt by the commissioner, and copies may be obtained by any person on request and upon payment of a reasonable charge therefor.

(e) Filings shall become effective upon the date of filing by delivery or upon date of mailing by registered mail to the commissioner, or on a later date specified in the filing.

(f) Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the commissioner.

(g) Any insurer may satisfy its obligation to make any such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings and by authorizing the commissioner to accept such filings on its behalf, provided that nothing contained in this chapter shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization or as requiring any member or subscriber to authorize the commissioner to accept such filings on its behalf.

(h) Every insurer who is a member of or a subscriber to a rating organization shall be deemed to have authorized the commissioner to accept on its behalf all filings made by the rating organization which are within the scope of its membership or subscribership, provided:

(1) that any subscriber may withdraw or terminate such authorization, either generally or for individual filings, by written notice to the commissioner and to the rating organization and may then make its own independent filings for any kinds of insurance, or subdivisions, or classes of risks, or parts or combinations of any of the foregoing, with respect to which it has withdrawn or terminated such authorization, or may request the rating organization, within its discretion, to make any such filing on an agency basis solely on behalf of the requesting subscriber; and

(2) that any member may proceed in the same manner as a subscriber unless the rating organization shall have adopted a rule, with the approval of the commissioner:

(A) requiring a member, before making an independent filing, first to request the rating organization to make such filing on its behalf and requiring the rating organization, within thirty (30) days after receipt of such request, either:

(i) to make such filing as a rating organization filing;

(ii) to make such filing on an agency basis solely on behalf of the requesting member; or

(iii) to decline the request of such member; and

(B) excluding from membership any insurer which elects to make any filing wholly independently of the rating organization.

(i) Under such rules as the commissioner shall adopt, the commissioner may, by written order, suspend or modify the requirement of filing as to any kinds of insurance, or subdivision, or classes of insurance, or parts or combinations of the foregoing, the rates for which can not practicably be filed before they are used. Such orders and rules shall be made known to insurers and rating organizations affected thereby. The commissioner may make such examination as the commissioner may deem advisable to ascertain whether any rates affected by such order are excessive, inadequate, or unfairly discriminatory.

(j) Upon the written application of the insured, stating the insured's reasons therefor, filed with the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

(k) An insurer shall not make or issue a policy or contract except in accordance with filings which are in effect for that insurer or in accordance with the provisions of this chapter. Subject to the provisions of section 6 of this chapter, any rates, rating plans, rules, classifications, or systems in effect on May 31, 1967, shall be continued in effect until withdrawn by the insurer or rating organization which filed them.

(l) The commissioner shall have the right to make an investigation and to examine the pertinent files and records of any insurer, insurance producer, or insured in order to ascertain compliance with any filing for rate or coverage which is in effect. The commissioner shall have the right to set up procedures necessary to eliminate noncompliance, whether on an individual policy, or because of a system of applying charges or discounts which results in failure to comply with such filing.

(m) The department may adopt rules to:

(1) implement the exemption under subsection (b);

(2) impose disclosure requirements the commissioner determines are necessary to adequately protect exempt commercial policyholders; and

(3) establish the form of the report required by subsection (n).

(n) Each insurer who issues insurance to an exempt commercial policyholder shall file an annual report with the department by February 1 of each year. The annual report may not disclose the identity of an exempt commercial policyholder and must include only the following information regarding each exempt commercial policyholder:

(1) the account number, policy number, or other number used by the insurer to identify the insured;

(2) the amount of aggregate annual commercial premium;

(3) the inception date and expiration date of commercial insurance coverage provided by the insurer;

(4) the criteria in subsection (n)(3) of this chapter used to establish the entity as an exempt commercial policyholder;

(5) the annual report filed under subsection (n) must be accompanied by the fee prescribed by IC 27-1-3-15(c); For purposes of calculating the required fee, each policy purchased by an exempt commercial policyholder shall be considered a product filing under IC 27-1-3-15(c).
(m) This subsection applies to an insurer that issues a commercial property or commercial casualty insurance policy to a commercial policyholder. Not more than thirty (30) days after the insurer begins using a commercial property or commercial casualty insurance:

(1) rate;

(2) rating plan;

(3) manual of classifications; or

(4) modification of an item specified in subdivision (1), (2), or (3);

the insurer shall file with the department, for informational purposes only, the item specified in subdivision (1), (2), (3), or (4). Use of an item specified in subdivision (1), (2), (3), or (4) is not conditioned on review or approval by the department. This subsection does not require filing of an individual policy rate if the original manuals, rates, and rules for the insurance plan or program to which the individual policy conforms has been filed with the department.

(n) Subsection (m) does not apply to policy forms.

SECTION 9. IC 27-8-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) as used in The definitions in this section apply throughout this chapter.

(b) "Account" means one (1) of the three (3) to two (2) accounts created under section 3 of this chapter.

(c) "Annuity contract", except as provided in section 2.3(e) of this chapter, includes:

(1) a guaranteed investment contract;

(2) a deposit administration contract;

(3) a structured settlement annuity;

(4) an annuity issued to or in connection with a government lottery; and

(5) an immediate or a deferred annuity contract.

(d) "Assessment base year" means, for an impaired insurer or insolvent insurer, the most recent calendar year for which required premium information is available preceding the calendar year during which the impaired insurer's or insolvent insurer's coverage date occurs.

(e) "Association", except when the context otherwise requires, means the Indiana life and health insurance guaranty association created under section 3 of this chapter.

(f) "Benefit plan" means a specific plan, fund, or program that is established or maintained by an employer or an employee organization, or both, that:

(1) provides retirement income to employees; or

(2) results in a deferral of income by employees for a period extending to or beyond the termination of employment.

(g) "Board" means the board of directors of the association selected under IC 27-8-8-4.

(h) "Called", when used in the context of assessments, means that notice has been issued to the association to member insurers requiring the member insurers to pay, within a time frame set forth in the notice, an assessment that has been authorized by the board.

(i) "Commissioner" means the insurance commissioner of the department of insurance appointed under IC 27-1-1-2.

(j) "Contractual obligation" means an enforceable obligation under a covered policy for which and to the extent that coverage is provided under section 2.3 of this chapter.

(k) "Coverage date" means, with respect to a member insurer, the date on which the earlier of the following occurs:

(1) The member insurer becomes an insolvent insurer.

(2) The association determines that the association will provide coverage under section 5(a) of this chapter with respect to the member insurer.

(l) "Covered policy" means any of:

(1) nongroup policy or contract; that is of a type described in section 2(a) of this chapter and is not excluded by section 2(b) of this chapter;

(2) certificate under a group policy or contract; or

(3) part of a policy, contract, or certificate described in subdivisions (1) and (2);

for which coverage is provided under section 2.3 of this chapter.

(m) "Extracontractual claims" includes claims that relate to bad faith in the payment of claims, punitive or exemplary damages, or attorney's fees and costs.

(n) "Funding agreement" has the meaning set forth in IC 27-1-12.7-1.

(o) "Impaired insurer" means a member insurer deemed by the commissioner to be potentially unable to fulfill its contractual obligations: that is:

(1) not an insolvent insurer; and

(2) placed under an order of rehabilitation or conservation by a court with jurisdiction.

(p) "Insolvent insurer" means a member insurer who becomes insolvent and that is placed under a final order of liquidation rehabilitation, or conservation with a finding of insolvency by a court with jurisdiction.

(q) "Member insurer" means any person that is licensed or holds a certificate of authority to transact in Indiana any kind of insurance for which coverage is provided under section 2.3 of this chapter. The term includes any insurer whose license or certificate of authority to transact such insurance in Indiana may have been suspended, revoked, not renewed, or voluntarily withdrawn but does not include the following:

(1) A for-profit or nonprofit hospital or medical and hospital service organization.

(2) A health maintenance organization under IC 27-13.

(3) A fraternal benefit society under IC 27-11.

(4) The Indiana Comprehensive Health Insurance Association or any other mandatory state pooling plan or arrangement.

(5) An assessment company or any other another person that operates an assessment plan (as defined in IC 27-1-2-3(y)).

(6) An interinsurance or reciprocal exchange authorized by IC 27-6-6.

(7) A prepaid limited health service health maintenance organization or a limited service health maintenance organization under IC 27-13-34.

(8) A special service health delivery plan under IC 27-8-7 (8).

(9) A farm mutual insurance company under IC 27-5.1.

(10) A person operating as a Lloyds under IC 27-7-1.

(11) The political subdivision risk management fund established by IC 27-1-29-10 and the political subdivision catastrophe liability fund established by IC 27-1-29-1.7.

(12) A person similar to any person described in subdivisions (1) through (11).

(r) "Moody's Corporate Bond Yield Average" means:

(1) the monthly average of the composite yield on seasoned corporate bonds as published by Moody's Investors Service, Inc.; or

(2) if the monthly average described in subdivision (1) is no longer published, an alternative publication of interest rates or yields determined appropriate by the association.

(s) "Multiple employer welfare arrangement" has the meaning set forth in IC 27-1-34-1.

(t) "Owner" means the person:

(1) identified as the legal owner of a policy or contract according to the terms of the policy or contract; or

(2) otherwise vested with legal title to a policy or contract through a valid assignment completed in accordance with the terms of the policy or contract and properly recorded as the owner on the books of the insurer.

The term does not include a person with a mere beneficial interest in a policy or contract.

(u) "Person" means an individual, a corporation, a limited liability company, a partnership, an association, a governmental entity, a voluntary organization, a trust, a trustee, or another business entity or organization.

(v) "Plan sponsor" refers to only one (1) of the following with respect to a benefit plan:

(1) The employer, in the case of a benefit plan established or maintained by a single employer.

(2) The holding company or controlling affiliate, in the case of a benefit plan established or maintained by affiliated companies comprising a consolidated corporation.
how ever, in the case of a plan sponsor, if more than fifty percent of the participants in the plan sponsor's benefit plan are employed in a single state, that state is considered to be the principal place of business of the plan sponsor. The principal place of business of a plan sponsor of a benefit plan described in subsection (v)(4), if more than fifty percent (50%) of the participants in the plan sponsor's benefit plan are not employed in a single state, is considered to be the principal place of business of the association, committee, joint board of trustees, or other similar group of representatives of the parties that establish or maintain the benefit plan and, in the absence of a specific or clear designation of a principal place of business, is considered to be the principal place of business of the employer or employee organization that has the largest investment in the benefit plan in question on the coverage date.

"Premiums" means direct gross insurance premiums and annuity amounts, deposits, and considerations received on covered policies, less returned premiums, returned deposits, and returned considerations, and dividends, paid or credited to policyholders on direct business: it and experience credits. The term does not include premiums the following:

(1) Amounts, deposits, and considerations on contracts between insurers and reinsurers. For purposes of assessments made under section 6 of this chapter: "premiums" for covered policies shall not be reduced on account of any limitation on benefits for which the association is obligated under section 2(b) of this chapter. However, "premiums" for assessment purposes does not include that portion of any premium exceeding received for policies or contracts or parts of policies or contracts for which coverage is not provided under section 2.3(d) of this chapter, as qualified by section 2.3(e) of this chapter, except that an assessable premium must not be reduced on account of the limitations set forth in section 2.3(e)(3), 2.3(e)(15), or 2.3(f)(2) of this chapter.

(2) Premiums in excess of five million dollars ($5,000,000) for any one (1) on an unallocated annuity contract not issued or not connected with a governmental benefit plan established under Section 401, 403(b), or 457 of the United States Internal Revenue Code.

(x) "Principal place of business" refers to the single state in which individuals who establish policy for the direction, control, and coordination of the operations of an entity as a whole primarily exercise the direction, control, and coordination, as determined by the association in the association's reasonable judgment by considering the following factors:

(1) The state in which the primary executive and administrative headquarters of the entity is located.
(2) The state in which the principal office of the chief executive officer of the entity is located.
(3) The state in which the board of directors or similar governing person of the entity conducts the majority of the board of directors' or governing person's meetings.
(4) The state in which the executive or management committee of the board of directors or similar governing person of the entity conducts the majority of the committee's meetings.
(5) The state from which the management of the overall operations of the entity is directed.

However, in the case of a plan sponsor, if more than fifty percent (50%) of the participants in the plan sponsor's benefit plan are employed in a single state, that state is considered to be the principal place of business of the plan sponsor. The principal place of business of a plan sponsor of a benefit plan described in subsection (v)(4), if more than fifty percent (50%) of the participants in the plan sponsor's benefit plan are not employed in a single state, is considered to be the principal place of business of the association, committee, joint board of trustees, or other similar group of representatives of the parties that establish or maintain the benefit plan and, in the absence of a specific or clear designation of a principal place of business, is considered to be the principal place of business of the employer or employee organization that has the largest investment in the benefit plan in question on the coverage date.
association law of the state of residence.

(3) For an unallocated annuity contract, subdivisions (1) and (2) do not apply, and this chapter provides coverage to
the following:
(A) A person that is the owner of the unallocated annuity contract, if the contract was issued to or in connection
with a benefit plan whose plan sponsor is a resident or, if the plan sponsor is not a resident, if all the following
criteria are satisfied:
(i) The member insurer that issued the unallocated annuity contract is domiciled in Indiana.
(ii) The state in which the plan sponsor resides has an association similar to the association.
(iii) The other association referred to in item (ii) does not provide coverage of the unallocated annuity
contract solely because the member insurer was not licensed in the state of residence at the time specified
in the guaranty association law of the state of residence.
(B) A person that is the owner of an unallocated annuity contract issued to or in connection with a government
lottery, if the owner is a resident or, if the owner is not a resident, if all the following conditions are satisfied:
(i) The member insurer that issued the unallocated annuity contract is domiciled in Indiana.
(ii) The state in which the owner resides has an association similar to the association.
(iii) The other association referred to in item (ii) does not provide coverage of the unallocated annuity
contract solely because the member insurer was not licensed in the state of residence at the time specified
in the guaranty association law of the state of residence.

(4) For a structured settlement annuity, subdivisions (1) and (2) do not apply, and this chapter provides coverage to
a person that is a payee under the structured settlement annuity (or beneficiary of a payee if the payee is deceased),
if the payee:
(A) is a resident, regardless of where the contract owner
resides; or
(B) is not a resident if all the following conditions are satisfied:
(i) The member insurer that issued the structured settlement annuity is domiciled in Indiana.
(ii) The state in which the payee resides has an association similar to the association.
(iii) Neither the payee nor the beneficiary of the payee
(if the payee is deceased) is eligible for coverage by the
other association referred to in item (ii) solely because
the member insurer was not licensed in the state of
residence at the time specified in the guaranty
association law of the state of residence.

(b) This chapter does not provide coverage to a person that is:
(1) a payee or beneficiary of a contract owner that is a
resident, if the payee or beneficiary is afforded any
coverage by the association of another state; or
(2) otherwise covered under subsection(a)(3), if any
coverage is provided to the person by the association of
another state.

(c) To avoid duplicate coverage, if a person that would
otherwise receive coverage under this chapter is provided
coverage under the laws of another state, the person is not
eligible for coverage under this chapter. In determining
the application of this subsection when a person may be covered by
the association of more than one (1) state as an owner, a payee,
a beneficiary, or an assignee, this chapter must be construed in
conjunction with the laws of the other state to result in coverage
by only one (1) association.

(d) Except as otherwise excluded or limited by this chapter,
this chapter provides coverage to the persons specified in
subsection(a) for:
(1) direct nongroup life, health, or annuity policies and
contracts and supplemental contracts to direct nongroup
life, health, or annuity policies and contracts;
(2) certificates under direct group life, health, and annuity
policies and contracts; and
(3) unallocated annuity contracts;
issued by member insurers.

(e) This chapter does not provide coverage for or with respect
to the following:
(1) A part of a certificate, policy, or contract:
(A) not guaranteed by the insurer; or
(B) under which the risk is borne by the payee, certificate
holder, or the policy or contract owner.
(2) A reinsurance policy or contract, unless and to the
extent that assumption certificates have been issued under
the reinsurance policy or contract.
(3) A part of a certificate, policy, or contract to the extent
that the certificate's, policy's, or contract's interest rate,
crediting rate, or similar factor employed in calculating
returns or changes in values, whether expressly stated in the
certificate, policy, or contract or determined by use of an
index or other external referent stated in the certificate,
policy, or contract, either:
(A) when averaged over a period of four (4) years
immediately before the applicable coverage date, exceeds
the rate of interest determined by subtracting two (2)
percentage points from Moody's Corporate Bond Yield
Average averaged for the same four (4) year period or
for a lesser period if the certificate, policy, or contract
was issued less than four (4) years before the applicable
coverage date; or
(B) in effect under the certificate, policy, or contract on
and after the applicable coverage date, exceeds the rate
of interest determined by subtracting three (3)
percentage points from Moody's Corporate Bond Yield
Average as most recently available on the applicable
coverage date.
(4) The obligations of a plan or program of an employer, an
association, or another person to provide life, health, or
annuity benefits to the employer's, association's, or other
person's employees, members, or others, including
obligations arising under and benefits payable by the
employer, association, or other person under a multiple
employer welfare arrangement.
(5) A minimum premium group insurance plan.
(6) A stop-loss or excess loss insurance policy or contract
providing for the indemnification of or payment to a policy
owner, a contract owner, a plan, or another person
obligated to pay life, health, or annuity benefits or to
provide services in connection with a benefit plan or
another plan, fund, or program for the provision of
employee welfare or pension benefits.
(7) An administrative services only contract.
(8) A part of a certificate, policy, or contract to the extent
that the certificate, policy, or contract provides for:
(A) dividends or experience rating credits;
(B) voting rights; or
(C) payment of fees or allowances to a person, including
the certificate holder or policy or contract owner, in
connection with service with respect to or administration
of the certificate, policy, or contract.
(9) A certificate, policy, or contract issued in Indiana by
a member insurer when the member insurer did not have a
certificate of authority to issue the certificate, policy, or
contract in Indiana.
(10) An unallocated annuity contract issued to or in
connection with a benefit plan protected by the federal
Pension Benefit Guaranty Corporation, regardless of
whether the federal Pension Benefit Guaranty Corporation
has yet been required to make payments with respect to
the benefit plan.
(11) An unallocated annuity contract or part of an
unallocated annuity contract that is not issued to or in
connection with a benefit plan or a government lottery.
(12) A certificate, policy, or contract or part of a certificate,
policy, or contract with respect to which the Class B
assessments contemplated by section 6 of this chapter may
not be made or collected under federal or state law.
(13) An obligation or claim that does not arise under the express written terms of the policy or contract issued by the member insurer to the contract owner or policy owner, including any of the following obligations and claims:
(A) Obligations and claims based on marketing materials.
(B) Obligations and claims based on side letters, riders, or other documents issued by the member insurer which meet applicable policy form filing or approval requirements.
(C) Obligations and claims based on actual or alleged misrepresentations.
(D) Obligations and claims that are extracontractual claims.
(E) Obligations and claims for penalties or consequential, incidental, punitive, or exemplary damages.

(14) An obligation to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the:
(A) Benefit plan;
(B) Benefit plan's trustee;

that is not an affiliate of the member insurer.
(15) A part of a certificate, policy, or contract to the extent the:
(A) Certificate, policy, or contract provides for the certificate's, policy's, or contract's interest rate, crediting rate, or similar factor employed in calculating returns or changes in values, to be determined by use of an index or other external referent stated in the certificate, policy, or contract; and
(B) Returns or changes in value have not been credited to the certificate, policy, or contract, or as to which the certificate holder's or policy or contract owner's rights are subject to forfeiture, as of the applicable coverage date.

If a certificate's, policy's, or contract's returns or changes in values are credited to the certificate, policy, or contract less frequently than annually, for purposes of determining the returns and values that have been credited and are not subject to forfeiture under this subdivision, the returns and changes in value determined by using the procedures defined in the certificate, policy, or contract must be considered credited as if the contractual date of crediting returns or changes in values were the applicable coverage date, and those credited returns or changes in value are not subject to forfeiture under this subdivision, but will be subject to any other applicable limitations under this chapter.

(16) A funding agreement.
(17) An annuity not subject to regulation as described in IC 27-1-12.4.

(f) The benefits that the association is obligated to cover do not exceed the lesser of the following:
(1) The contractual obligations for which the member insurer is liable or would have been liable if the member insurer were not an impaired insurer or insolvent insurer.
(2) The applicable limitations as follows:
(A) With respect to certificates, policies, and contracts not subject to clause (B), (C), (E), or (F), with respect to one (1) life, regardless of the number of policies or contracts, the following limitations:
(i) Three hundred thousand dollars ($300,000) in life insurance death benefits, but not more than one hundred thousand dollars ($100,000) in net cash surrender and net cash withdrawal values.
(ii) Three hundred thousand dollars ($300,000) in health insurance benefits, but not more than one hundred thousand dollars ($100,000) in net cash surrender and net cash withdrawal values.
(iii) One hundred thousand dollars ($100,000) in the present value of annuity benefits, including net cash surrender and net cash withdrawal values.
(B) With respect to unallocated annuity contracts issued to or in connection with a governmental benefit plan established under Section 401, 403(b), or 457 of the United States Internal Revenue Code, one hundred thousand dollars ($100,000) in the present value of annuity benefits, including net cash surrender and net cash withdrawal values, per participant.
(C) With respect to structured settlement annuities, one hundred thousand dollars ($100,000) in the present value of annuity benefits, including net cash surrender and net cash withdrawal values, per payee.
(D) In addition to the foregoing limitations, the association is not obligated to cover more than:
(i) An aggregate of three hundred thousand dollars ($300,000) in benefits with respect to any one (1) person under clauses (A), (B), and (C); or
(ii) With respect to one (1) owner of multiple nongroup policies of life insurance, whether the policy owner is an individual, a firm, a corporation, or another person, and whether the persons insured are officers, managers, employees, or other persons, five million dollars ($5,000,000) in benefits, including net cash surrender and net cash withdrawal values, regardless of the number of policies and contracts held by the owner.
(E) With respect to unallocated annuity contracts issued to or in connection with a government lottery, five million dollars ($5,000,000) in benefits per contract owner, regardless of the number of contracts held by the contract owner.
(F) With respect to unallocated annuity contracts:
(i) Issued to or in connection with a benefit plan; and
(ii) Not subject to clause (B);

five million dollars ($5,000,000) in benefits per plan sponsor, regardless of the number of unallocated annuity contracts entitled to coverage under this chapter.

(g) The limitations set forth in subsection (f) are limitations on the benefits for which the association is obligated before taking into account the:
(1) Association's subrogation and assignment rights; or
(2) Extent to which the benefits could be provided out of the assets of the impaired insurer or insolvent insurer attributable to covered policies.

The costs of discharging the association's obligations under this chapter may be met by the use of assets attributable to covered policies or reimbursed to the association under the association's subrogation and assignment rights.

(h) In discharging the association's obligations to provide coverage under this chapter, the association is not required to:
(1) Guarantee, assume, reinsure, or perform;
(2) Cause to be guaranteed, assumed, reinsured, or performed; or
(3) Otherwise assure the discharge of:

the obligations of the insolvent insurer or impaired insurer under a covered policy that do not materially affect the economic values or economic benefits of the covered policy.

SECTION 12. IC 27-8-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) There is created a nonprofit legal entity referred to as the Indiana Life and Health Insurers Guaranty Association. A member insurer shall be and remain a member of the association as a condition of the member insurer's authority to transact insurance in Indiana. An insurer must be a member of the association. The association shall perform its functions under the plan of operation established in and approved under section 7 of this chapter. The association shall exercise its powers and be exercised through a board of directors established under section 4 of this chapter. For purposes of administration and assessment the association shall maintain three (3) the following two (2) accounts:
(1) The health insurance account.
(2) The life insurance and annuity account, which includes the following subaccounts:
(A) The life insurance subaccount.
(B) The annuity subaccount, which includes annuity contracts issued to or in connection with a governmental
benefit plan established under Section 401, 403(b), or 457 of the United States Internal Revenue Code, but otherwise excludes unallocated annuities.

(C) The unallocated annuity subaccount, which excludes annuity contracts issued to or in connection with a governmental benefit plan established under Section 401, 403(b), or 457 of the United States Internal Revenue Code.

(2) The annuity account:

(b) The association is subject to the supervision of the commissioner and to the Indiana applicable provisions of the insurance law: From the assessments specified in section 6 of this chapter, the association shall pay administrative costs and general expenses incurred by the commissioner in supervising the association and discharging the commissioner's obligations under this chapter.

laws of Indiana.

SECTION 13. IC 27-8-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The board of directors of the association shall consist of not less than five (5) nor more than nine (9) member insurers serving terms established in the plan of operation. The members of the board shall be selected by member insurers subject to the approval of the commissioner.

(b) Vacancies on the board shall be filled for the remaining period of the term by a majority vote of the remaining board members, subject to the approval of the commissioner.

(c) To select the initial board of directors, and initially organize the association, the commissioner shall give notice to all member insurers of the term and place of the organizational meeting. At the organizational meeting, each member insurer is entitled to one (1) vote in person or by proxy. If the board of directors is not selected within sixty (60) days after notice of the organizational meeting, the commissioner may appoint the initial members of the board.

Members of the board may be reimbursed from the assets of the association only for expenses incurred by the members as members of the board. The association shall not otherwise compensate members of the board for their services on the board.

SECTION 14. IC 27-8-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) If a domestic member insurer is an impaired insurer, the association may, in the association's sole discretion and subject to any conditions imposed by the association in the association's sole discretion, subject to any applicable law, and subject to the approval of the impaired insurer and subject to the approval of the impaired insurer and that are approved by the commissioner:

(1) guarantee, assume, reinsure, or perform, or cause to be guaranteed, assumed, reinsured, or performed, the contractual obligations of any of the covered policies of the impaired insurer or otherwise assure the discharge of the contractual obligations of the covered policies of the impaired insurer; and

(2) provide money, pledges, loans, notes, guarantees, or use other means as are determined by the association in the association's sole discretion to be necessary or appropriate to effectuate subdivision (1), and assure payment of the contractual obligations of the impaired insurer pending payment under subdivision (1); and

(b) if a domestic insurer is an insolvent insurer, the association shall, subject to the approval of the commissioner:

(1) guarantee, assume, reinsure, or perform, or cause to be guaranteed, assumed, reinsured, or performed, the contractual obligations of any of the covered policies of the insolvent insurer; and

(2) provide money, pledges, loans, notes, guarantees, or use other means as are necessary to discharge the contractual obligations of the insolvent insurer.

However, if the domestic insurer is subject to proceedings under IC 27-9-2 and the initial petition was filed after December 31, 1985, this subsection applies only to the covered policies of residents and nonresidents to whom coverage is provided under section 1.5(d) of this chapter and the contractual obligation of the insolvent insurer to residents and nonresidents to whom coverage is provided under section 1.5(d) of this chapter.

(c) If a foreign or alien insurer is an insolvent insurer, the association shall:

(1) guarantee; assume; or reinsure or cause to be guaranteed, assumed, reinsured, or performed, the contractual obligations of the insolvent insurer to residents and nonresidents to whom coverage is provided under section 1.5(d) of this chapter;

(2) assure payment of the contractual obligations of the insolvent insurer to residents to whom coverage is provided under section 1.5(d) of this chapter; and

(3) provide money, pledges, notes, guarantees, or other means as are necessary to discharge its duties.

The association may appear, intervene, assert objections; or take other action as is necessary and appropriate to protect the interests of residents of Indiana to whom coverage is provided under section 1.5(d) of this chapter, and the commissioner's obligations under this chapter, and the commissioner's obligations under this chapter, and the commissioner's obligations under this chapter, and the commissioner's obligations under this chapter, and the commissioner's obligations under this chapter, and the commissioner's obligations under this chapter, and the commissioner's obligations under this chapter, and the commissioner's obligations under this chapter, and the commissioner's obligations under this chapter.

(d) Subsection (c) shall not apply when the commissioner determines that the foreign or alien insurer's domiciliary jurisdiction or statute protecting resident is substantially similar to that provided by this chapter for residents of Indiana.

(b) An obligation undertaken by the association under subsection (a) with respect to a covered policy of an impaired insurer ceases on the date the covered policy is replaced by a policy owner, insured, or association.

(c) If a member insurer is an insolvent insurer, the association shall, in the association's sole discretion, do one (1) of the following for each covered policy:

(1) Guarantee, assume, reinsure, or perform, or cause to be guaranteed, assumed, reinsured, or performed, the contractual obligations of the covered policy or otherwise assure the discharge of the contractual obligations of the covered policy;

(2) Terminate existing benefits and coverage and provide benefits and coverages in accordance with the following provisions:

(A) For premiums identical to the premiums that would have been payable under the covered policy, assure payment of benefits arising under the contractual obligations, except for terms of conversion and nonrenewability, for:

(i) with respect to a group covered policy, claims incurred not later than the earlier of the next renewal date under the covered policy or forty-five (45) days, but not less than thirty (30) days, after the coverage date for the insolvent insurer; and

(ii) with respect to a nongroup covered policy, claims incurred not later than the earlier of the next renewal date under the covered policy or one (1) year, but in no event less than thirty (30) days, after the coverage date for the insolvent insurer.

(B) Make diligent efforts to provide each:

(i) known insured or annuitant, for a nongroup covered policy; and

(ii) owner, for a group covered policy;

at least thirty (30) days notice of the termination of the benefits provided.

(C) Make available substitute coverage, on an individual basis, to each:

(i) owner of a nongroup covered policy if the owner had a right to continue the nongroup covered policy in force until a specified age or for a specified period, during which time the insurer had no unilateral right to make changes in the nongroup covered policy's provisions or had only a unilateral right to make changes in premiums only by class; and

(ii) insured or annuitant under a group covered policy if the insured or annuitant is not eligible for any replacement group coverage and had a right, before
termination of the group covered policy, to convert to individual coverage.

(D) In making available any substitute coverage under clause (C), the association may offer to reissue the terminated coverage or to issue an alternative policy or contract. If made available under clause (C), alternative or reissued policies and contracts must be offered without requiring evidence of insurability and must not impose any waiting period or coverage exclusion, other than a waiting period or coverage exclusion provided for in this chapter, that would not have applied under the terminated covered policy. The association may cause any alternative or reissued policy or contract to be assumed or reinsured.

(E) Use of alternative policies and contracts by the association is subject to the approval of the domiciliary insurance regulatory authority and the receivership court. The association may adopt alternative policies and contracts of various types for future issuance without regard to any particular impairment or insolvency. Alternative policies and contracts must contain at least the minimum statutory provisions required in Indiana and provide benefits that are reasonable in relation to the premium charged. The association shall set the premium in accordance with a table of rates adopted by the association. The premium must:

(i) reflect the amount of insurance to be provided and the age and class of risk of each insured; and
(ii) not reflect changes in the health of the insured after the terminated covered policy was last underwritten.

Subject to coverage exceptions, exclusions, and limitations provided for in this chapter, an alternative policy or contract issued by the association must provide coverage similar, in material respects, to the coverage under the terminated covered policy as determined by the association.

(F) If the association elects to reissue terminated coverage at a premium rate different from the premium rate charged under the terminated covered policy, the association shall set the premium in accordance with a table of rates adopted by the association. The premium:

(i) must reflect the amount of insurance to be provided and the age and class of risk of each insured; and
(ii) is subject to approval of the domiciliary insurance regulatory authority and the receivership court.

(G) The association's obligations with respect to coverage under a covered policy of an insolvent insurer or under a reissued or alternative policy or contract ceases on the date the coverage or covered policy is replaced by another similar policy by the policy owner, insured, or association.

(H) Subject to subsection (u), when proceeding under this subdivision with respect to a covered policy carrying guaranteed minimum interest rates, the association shall assure the payment or crediting of a rate of interest consistent with section 2.3(e)(3) of this chapter.

(3) Take any combination of the actions set forth in subdivisions (1) and (2).

(d) The association may provide money, pledges, loans, notes, or guarantees, or use other means that the association, in the association's sole discretion, determines are necessary or appropriate to discharge the association's duties under subsection (c).

(e) Failure to pay premiums within thirty-one (31) days after the date that payment is due under the terms of a guaranteed, assumed, alternative, or reissued policy or contract or substitute coverage terminates the association's obligations under this chapter with respect to the policy, contract, or coverage, except with respect to claims incurred or net cash surrender value due under this chapter.

(f) Premiums due for coverage after the coverage date for an impaired insurer or insolvent insurer belong to and are payable at the direction of the association, and the association is liable for unearned premiums payable to policy or contract owners with respect to premiums received by the association.

(g) The protection provided by this chapter does not apply where any guaranty protection is provided to residents of this state by the laws of the domiciliary state or jurisdiction of the impaired insurer or insolvent insurer if the domiciliary state is a state other than Indiana.

(2) Subject to subdivision (1) and any contractual provisions for deferral of cash or policy loan values:

(1) permanent policy or contract liens, if the association finds that:

(A) the amounts that can be assessed under this chapter are less than the amounts needed to assure full and prompt performance of the insolvent insurer's contractual obligations; association's duties under this chapter; or that

(B) economic or financial conditions, as they affect member insurers, are sufficiently adverse so as to render the imposition of the permanent policy or contract liens to be in the public interest; and

(2) approves the specific policy items or contract items to be assessed.

A court may make findings under subdivision (1) and approve policy items or contract items under subdivision (2) in any proceeding under IC 27-9 with respect to an insolvent insurer (including a proceeding under IC 27-9-4 in which affected policyholders or contract holders are given reasonable notice and an opportunity to be heard); or in an original proceeding involving a foreign or alien insurer instituted by the association against affected policyholders or contract holders who are residents of Indiana: Any policyholder or contract holder affected by a court's decision under this subsection may appeal the decision in the manner that appeals are taken from final judgments in other civil actions. All parties to the proceeding shall take note of and be bound by the appeal; but the appeal does not stay the proceeding.

(h) Before being obligated under subsections (b) and (c), the association may request that there be imposed temporary moratoriums or liens on payments of cash values and policy loans or any other right to withdraw funds held in conjunction with a covered policy, in addition to any contractual provisions for deferral of cash or policy loan value.

In addition, in the event of a temporary moratorium or moratorium charge imposed by the receivership court on payments of cash values or policy loans or any other right to withdraw funds held in conjunction with a covered policy out of the assets of the impaired insurer or insolvent insurer, the association may defer the payment of cash values, policy loans, or other rights by the association for the period of the moratorium or moratorium charge imposed by the receivership court, except for claims covered by the association to be paid in accordance with a hardship procedure established by the liquidator or rehabilitator and approved by the receivership court.

(i) A deposit in Indiana, held by law or required by the commissioner for the benefit of creditors, including policy owners, that is not turned over to the domiciliary receiver before or promptly after the coverage date for an impaired insurer or insolvent insurer under IC 27-9-4-3 must be promptly paid to the association. The association:

(1) may retain a part of an amount paid to the association under this subsection equal to the percentage determined by dividing the aggregate amount of policy owners' claims related to the impairment or insolvency for which the association provides statutory benefits by the aggregate amount of all policy owners' claims in Indiana related to the impairment or insolvency; and

(2) shall remit to the domiciliary receiver the difference between the amount paid to the association and the amount retained by the association under this subsection.
An amount retained by the association under this subsection must be treated as a distribution of estate assets under IC 27-9-3-32 or similar provision of the state of domicile of the impaired insurer or insolvent insurer.

(j) If the association fails to act within a reasonable period of time as provided in subsections (h) and subsection (c) of this section, with respect to an insolvent insurer, the commissioner has the powers and duties of the association under this chapter with respect to the insolvent insurer.

(k) The association may, upon the commissioner’s request, assist and advise the commissioner concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of an impaired insurer or insolvent insurer.

(l) The association is entitled to provide substitute coverage for a covered policy that provides for

(m) A person receiving benefits under this chapter assigns is considered to have assigned:

(1) the person’s rights under; and
(2) any cause of action against another person for losses arising under, resulting from, or otherwise relating to the covered policy to the association.

(n) The subrogation rights of the association under subsections (m) and (o) have the same priority against the assets of an insolvent insurer as those possessed by the person entitled to receive benefits under this chapter.

The association may not become liable for the contractual obligations of an impaired insurer in excess of what the contractual obligations of the insolvent insurer would have been in the absence of an insolvency, unless the obligations are reduced as permitted by subsection (1). However, the aggregate liability of the association with respect to covered policies other than unallocated annuity contracts is not to exceed one hundred thousand dollars ($100,000) in cash values, or three hundred thousand dollars ($300,000) for all benefits, including cash values, with respect to any one (1) contract holder.

The aggregate liability of the association with respect to covered unallocated annuity contracts must not exceed five million dollars ($5,000,000) for all benefits, including cash values, with respect to any one (1) contract holder, irrespective of the number of unallocated annuity contracts held by the contract holder.

In addition to the rights conferred by subsections (m) and (n), the association has all common law rights of subrogation and any other equitable or legal remedy with respect to a covered policy that would have been available to the:

(1) impaired insurer or insolvent insurer;
(2) owner, beneficiary, or payee of a policy or contract with respect to the policy or contract, including, in the case of a structured settlement annuity, rights of the owner, beneficiary, or payee of the annuity, to the extent of benefits received under this chapter, against a person:
(A) who is originally or by succession responsible for the losses arising from the personal injury relating to the annuity or payment for the annuity; and
(B) whose responsibility is not solely because of the person serving as an assignee in respect of a qualified assignment under Section 130 of the Internal Revenue Code; and
(3) certificate holder, or the beneficiary or payee of the certificate holder, with respect to a certificate.

(p) If subsection (m), (n), or (o) is invalid or ineffective with respect to a person or claim, the amount payable by the association with respect to the related covered policies must be reduced by the amount realized by another person with respect to the person or claim that is attributable to the covered policies.

(q) If the association provides benefits with respect to a covered policy and a person recovers amounts to which the person has rights as described in subsection (m), (n), or (o), the person shall pay to the association the part of the recovery attributable to the covered policies.

(r) The association may do the following:
(1) Enter into contracts necessary or appropriate to carry out the provisions and purposes of this chapter.
(2) Sue or, subject to section 14 of this chapter, be sued, including taking legal actions necessary or appropriate to recover unpaid assessments under section 6 of this chapter and to resolve claims or potential claims against or on behalf of the association.
(3) Borrow money to effect the provisions purposes of this chapter and issue notes or other evidences of indebtedness of the association with respect to borrowings. Notes or other evidences of indebtedness described in this subdivision that are not in default are legal investments for domestic insurers and may be carried as admitted assets.
(4) Employ or retain persons necessary or appropriate to handle the financial transactions of the association and to perform other functions necessary or appropriate under this chapter.
(5) Negotiate and contract with a liquidator, a rehabilitator, a conservator, or an ancillary receiver to carry out the powers and duties of the association;
(6) Take legal action necessary or appropriate to avoid or recover payment of improper claims.
(7) Exercise, for the purposes of this chapter and to the extent approved by the commissioner, the powers of a domestic life or health insurer. However, in no case may the association issue insurance policies or annuity contracts other than those issued to perform the contractual association’s obligations of the impaired or insolvent insurer under this chapter.
(8) Request information from a person seeking coverage from the association to aid the association in determining and discharging the association’s obligations under this chapter with respect to the person. The person shall promptly comply with the request.
(9) Settle claims and potential claims by or against the association.
(10) Exercise all rights, privileges, and powers granted to the association by any other laws of Indiana or another jurisdiction.
(11) Take other necessary or appropriate action to discharge the association’s duties and obligations under this chapter or to exercise the association’s rights and powers under this chapter.

The association may belong to one (1) or more organizations of one (1) or more other state associations of similar purpose to further the purpose and administer the powers and duties of the association.

Any notes or other evidences of indebtedness of (1) The association not in default are legal investments for domestic insurers has discretion and may be carried as admitted assets. Exercise reasonable business judgment to determine the means by which the association is to discharge, in an economical and efficient manner, the association’s obligations under this chapter.

In discharging the association’s obligations and exercising the association’s rights and powers under subsections (a) and (c), the association may, subject to approval of the receivership court, provide substitute coverage for a covered policy that provides for the covered policy’s interest rate, crediting rate, or similar factor
employed in calculating returns or changes in value to be determined by use of an index or other external referent stated in the covered policy by issuing an alternative policy or contract in accordance with the following provisions:

(1) Instead of the index or other external referent stated in the covered policy, the alternative policy or contract may provide for:
- (A) a fixed interest rate;
- (B) payment of dividends with minimum guarantees; or
- (C) a different method for calculating returns or changes in value.

(2) A:
- (A) requirement for evidence of insurability; or
- (B) waiting period or an exclusion, other than a waiting period or an exclusion provided for in this chapter; that would not have applied under the covered policy may not be imposed.

(3) The alternative policy or contract must provide coverage similar, in material respects, to the coverage under the covered policy, after taking into account the exceptions, exclusions, and limitations provided for in this chapter, as determined by the association.

**SECTION 15. IC 27-8-8-5.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** Sec. 5.2. (a) At any time within one (1) year after the coverage date for an impaired insurer or insolvent insurer, the association may elect, subject to subdivisions (1) through (4), to succeed to the rights and obligations of the impaired insurer or insolvent insurer that accrue on or after the coverage date and that relate to covered policies under one (1) or more indemnity reinsurance agreements entered into by the impaired insurer or insolvent insurer as a ceding insurer. However, the association may not exercise an election with respect to a reinsurance agreement if the receiver, rehabilitator, or liquidator of the impaired insurer or insolvent insurer has previously and expressly disaffirmed the reinsurance agreement. The election by the association must be effected by a notice to the receiver, rehabilitator, or liquidator and to the affected reinsurers specifying the reinsurance agreement concerning which the association has made the foregoing election. If the association makes an election, the following apply with respect to the agreements selected by the association:

- (1) The association is responsible for:
  - (A) all unpaid premiums due under the agreements for periods before and after the coverage date; and
  - (B) the performance of all other obligations of the impaired insurer or insolvent insurer to be performed after the coverage date; that relate to covered policies. The association may charge covered policies that are only partially covered by the association, through reasonable allocation methods, the costs for reinsurance in excess of the obligations of the association.

- (2) The association is entitled to any amount payable by the reinsurer under the selected agreements:
  - (A) with respect to losses or events that occur during periods after the coverage date; and
  - (B) that relate to covered policies.

Of the amount received from the reinsurer, the association is obliged to pay to the beneficiary under the covered policy on account of which the amount was paid a portion of the amount equal to the excess of the amount received by the association over benefits paid by the association on account of the covered policy less the retention of the impaired insurer or insolvent insurer applicable to the loss or event. (3) Within thirty (30) days after the association’s election, the association and each indemni ty reinsurer shall calculate the net balance due to or from the association under each reinsurance agreement as of the date of the association’s election, giving full credit to all items paid by the:
- (A) impaired insurer or insolvent insurer, or the impaired insurer’s or insolvent insurer’s receiver, rehabilitator, or liquidator; or
- (B) indemnity reinsurer;

during the period between the coverage date and the date of the association’s election. Either the association or indemnity reinsurer shall pay the net balance due the other not more than five (5) days after the completion of the calculation. If the receiver, rehabilitator, or liquidator has received any amount due the association under subdivision (2), the receiver, rehabilitator, or liquidator shall remit the amount to the association as promptly as practicable.

If the association, within sixty (60) days of the election, pays the premiums due for periods before and after the coverage date that relate to covered policies, the reinsurer is not entitled to:
- (A) terminate the reinsurance agreements insofar as the agreements relate to covered policies; or
- (B) set off any unpaid premium due for periods before the coverage date against amounts due the association.

(b) If the association transfers any of the association’s obligations to another insurer, and if the association and the other insurer agree, the other insurer succeeds to the rights and obligations of the association under subsection (a) with respect to the transferred obligations effective as of the date agreed upon by the association and the other insurer and regardless of whether the association has made the election referred to in subsection (a), except that the:

- (1) indemnity reinsurance agreements automatically terminate for new reinsurance unless the indemnity reinsurer and the other insurer agree to the contrary; and
- (2) obligations of the association described in subsection (a)(2) no longer apply on and after the date the indemnity reinsurance agreement is transferred to the third party insurer.

This subsection does not apply if the association has previously notified the receiver, rehabilitator, or liquidator and the affected reinsurer in writing that the association will not exercise the election referred to in subsection (a).

(c) Subsections (a) and (b) supersede any other law or affected reinsurance agreement that provides for or requires payment of reinsurance proceeds, account on account of losses or events that occur after the coverage date, to the receiver, liquidator, or rehabilitator of the impaired insurer or insolvent insurer. The receiver, rehabilitator, or liquidator remains entitled to amounts payable by the reinsurer under the reinsurance agreement with respect to losses or events that occur before the coverage date, subject to applicable setoff provisions.

- (D) Except as provided in subsections (a), (b), and (c), this chapter does not alter or modify the terms and conditions of indemnity reinsurance agreements of the insolvent insurer.

(e) This chapter does not:
- (1) abrogate or limit the rights of a reinsurer to claim that the reinsurer is entitled to rescind a reinsurance agreement; or
- (2) give a policy owner or beneficiary an independent cause of action against an indemnity reinsurer that is not otherwise set forth in the indemnity reinsurance agreement.

**SECTION 16. IC 27-8-8-5.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** Sec. 5.4. If the association has arranged or offered to discharge the association’s obligations under this chapter with respect to contractual obligations owed to a person entitled to coverage under this chapter:

- (1) the person, and any other person claiming by, through, or under the person, is not entitled to benefits from the association in addition to or other than benefits arranged or offered by the association; and
- (2) the association is relieved of further obligation with respect to the contractual obligations if the person rejects, declines, or otherwise fails to accept the association’s arrangement or offer.

**SECTION 17. IC 27-8-8-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** Sec. 5.5. (a) Venue in a suit against the association is in Marion County.

(b) The association is not required to give an appeal bond in an appeal that relates to a cause of action arising under or with
SECTION 18. IC 27-8-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) For the purpose of providing funds necessary to carry out the powers and duties of the association and to pay administrative costs and expenses incurred by the commissioner in supervising the association and discharging the commissioner's obligations under this chapter, the board of directors shall assess the member insurers, separately for each account, as established in section 3 of this chapter, at a time and for amounts as the board finds necessary. Assessments are due not less than thirty (30) days after prior written notice to the member insurers and accrue interest at six percent (6%) per year annuam on and after the due date.

(b) Three (3) There are two (2) classes of assessments are established as follows:

(1) The first, to be referred to as Class A consists of assessments made are assessments that are authorized and called by the board for the purpose of meeting administrative and legal costs and other general expenses. including examinations conducted under section 9(2) of this chapter Class A assessments may be authorized and called whether or not related to a particular impaired insurer or insolvent insurer.

(2) The second class, to be referred to as Class B consists of assessments made are assessments that are authorized and called by the board to the extent necessary to carry out the powers and duties of the association under section 5 of this chapter with regard to an impaired insurer or insolvent domestic insurer.

(3) The third class, to be referred to as Class C consists of assessments made to extent necessary to carry out the powers and duties of the association under section 5 of this chapter with regard to an insolvent foreign or alien insurer.

(c) The amount of a Class B or C assessment must be allocated among the three (3) accounts; set out in section 3 of this chapter, in proportion to the contractual obligations on the policies covered by each account.

(d) The amount of a Class A assessment to be paid by each member insurer shall be determined by the board and may be made on a nonproportional basis. The amount assessed a member insurer each calendar year may not exceed fifteen dollars ($150) and the amount must be credited against future insolvency assessments.

(e) Except as provided in subsection (c), a member insurer shall only pay a proportion of a Class B assessment for those accounts that the member has in common with the impaired or insolvent domestic insurer in each state that the impaired or insolvent domestic insurer and member insurer have been authorized to transact the business of insurance: For each account that the member has in common with the impaired or insolvent domestic insurer in each state; the member insurer shall pay an amount equal to the product of:

(+ the total amount of the Class B assessment allocated to the account; multiplied by:

(2) a fraction:

(A) the numerator of which is the premiums received on business in that state on policies covered by the account for the year preceding the year in which this assessment is made; and

(B) the denominator of which is the premiums received by all assessed member insurers on business in that state for the calendar year preceding the year this assessment is made.

(f) A member insurer shall only pay a proportion of a Class C assessment that the member has in common with the insolvent foreign or alien insurer. For each account that the member insurer has in common with the insolvent foreign or alien insurer; the member insurer shall pay an amount equal to the product of:

(+ the total amount of the Class C assessment allocated to the account; multiplied by:

(2) a fraction:

(A) the numerator of which is the premiums received on business in Indiana on policies covered by the account for the year preceding the year in which this assessment is made; and

(B) the denominator of which is the premiums received by all member insurers on business in Indiana for the calendar year preceding the year this assessment is made.

(g) Assessments shall not be made.

(c) The amount of a Class A assessment must be determined by the board and may be authorized and called on a pro rata or non-pro rata basis. If pro rata, the board may provide that the assessment be credited against future Class B assessments. The total of all non-pro rata assessments must not exceed one hundred fifty dollars ($150) per member insurer in any one (1) calendar year.

(d) The amount of a Class B assessment must be allocated for assessment purposes among the accounts under an allocation formula that may be based on the premiums or reserves of the impaired insurer or insolvent insurer or another standard considered by the board in the board's sole discretion as fair and reasonable under the circumstances.

(e) Class B assessments against member insurers for each account and subaccount with respect to an impaired insurer or insolvent insurer must be allocated among the assessed member insurers in the proportion that the premiums received in Indiana by each assessed member insurer on policies and contracts covered by the account or subaccount during the assessment base year for the impaired insurer or insolvent insurer bears to premiums received in Indiana by all assessed members on policies and contracts covered by the same account or subaccount during the same assessment base year.

(f) Assessments for funds to meet the requirements of the association with respect to an impaired insurer or insolvent insurer must not be authorized or called until necessary to implement the purposes of this chapter. Classification of assessments under subsection (b) and computation of assessments under subsections (c), (d), and (e) must be made as accurately as possible with a reasonable degree of accuracy, recognizing that exact determinations are not always possible. The association shall notify each member insurer of the member insurer's anticipated share of each assessment that has been authorized but not yet called not more than one hundred eighty (180) days after the assessment is authorized.

(g) The association may abate or defer, in whole or in part, the amount of an assessment of a member insurer is to pay if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual policy and contract obligations. In the event an assessment against a member insurer is abated or deferred in whole or in part, the amount by which the assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the computation provided for basis for assessments set forth in this section. Once the conditions that caused a deferral have been removed or rectified, the member insurer shall pay assessments that were deferred under a repayment plan approved by the association.

(h) Subject to subsection (i), the total amount of all assessments to be paid by the association in one (1) calendar year against a member insurer for each a given single account of the life insurance and annuity account in any one (1) calendar year may or for the health insurance account with respect to any single assessment base year must not exceed two percent (2%) of the member insurer's premiums received by the insurer from business in Indiana during the calendar year preceding the assessment on the policies and contracts covered by each the subaccount or account during the applicable assessment base year.

(i) If two (2) or more assessments are authorized in one (1) calendar year with respect to impaired insurers or insolvent insurers having different assessment base years, the annual premium used for purposes of determining the aggregate assessment percentage limitation referenced in subsection (k) must be equal to the higher of the annual premiums for the applicable subaccount or account as calculated under this section.

(j) If the maximum assessment, for each account together with other assets of the association in that an account, does not provide in one (1) year in the account an amount sufficient to carry out the responsibilities of the association, for one (1) year additional funds must be assessed as soon as permitted by this chapter.

(k) The board may provide in the plan of operation a method or procedure for allocating funds among claims relating to one
(1) or more impaired insurers or insolvent insurers when the maximum assessment is insufficient to cover anticipated claims.

(1) If the maximum assessment for a subaccount of the life insurance and annuity account in one (1) year does not provide an amount sufficient to carry out the responsibilities of the association, the board shall, under subsection (e), access the other subaccounts of the life insurance and annuity account for the necessary additional amount, subject to the maximum stated in subsections (b) and (l).

(γ) (m) The board may, by an equitable method or procedure as established in the plan of operation, refund to member insurers, in proportion to their the contribution of each member insurer to the account, the amount by which the assets of the account exceed the amount the board determines is necessary to carry out the obligations of the association with regard to the account, including assets accruing from assignment, subrogation, net realized gains, and income from investments, exceed the amount the board finds necessary to carry out the obligations of the association. A reasonable amount may be retained in an account to provide funds for the continuing expenses of the association and for the future losses if refunds are impracticable discharge of the association's obligations.

(γ) (n) It is proper for a member insurer, in determining its premium assessment, to hold its particular type of insurance within the scope of this chapter, may take into consideration the amount reasonably necessary to meet its assessment obligations under this chapter.

(γ) (o) The association shall issue to each member insurer paying an assessment under this chapter, other than a Class B or C assessment, a certificate of contribution, in a form prescribed by the commissioner, for the amount of each the assessment paid. All outstanding certificates are of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the member insurer in its financial statement as an asset in the form and for the amount and period of time as the association may approve.

(γ) (p) The board may, as established in the plan of operation, agree to accord a member insurer a credit against the amount of a Class B or C assessment otherwise payable by that member insurer with respect to contractual obligations of an impaired or insolvent insurer to the extent; but only to the extent; that the member insurer has, by means of payment, guarantee, assumption, or reinsurance, taken action to reduce the contractual obligations of the impaired or insolvent insurer with respect to which the assessment is made, and for which the association would otherwise be responsible.

(γ) (q) Notwithstanding subsection (e), this subsection applies where a domestic insurer has been subject to proceedings under IC 27-9-3 and the initial proceeding was filed after December 31, 1985. A member insurer shall only pay a proportion of a Class B assessment for those accounts that the member has in common with the impaired or insolvent domestic insurer in Indiana. For each account that the member has in common with the impaired or insolvent domestic insurer in Indiana, the member insurer shall pay an amount equal to the product of:

(γ) the total amount of the Class B assessment allocated to the account; multiplied by

(γ) (r) a fraction:

(γ) (s) the numerator of which is the premiums received on business in Indiana on policies covered by the account for the year preceding the year in which this assessment is made; and

(γ) (t) the denominator of which is the premiums received by all assessed member insurers on business in Indiana for the calendar year preceding the year this assessment is made.

SECTION 19. IC 27-8-8-6.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.2. (a) A member insurer that wishes to protest all or part of an assessment made under section 6 of this chapter shall pay when due the full amount of the assessment as set forth in the notice provided by the association. The payment is available to meet association obligations during the pendency of the protest or a subsequent appeal. Payment must be accompanied by a statement in writing that the payment is made under protest and set forth a brief statement of the grounds for the protest.

(b) Not more than sixty (60) days after the payment of an assessment under protest by a member insurer, the association shall notify the member insurer in writing of the association's determination with respect to the protest (unless the association notifies the member insurer that additional time is required to resolve the issues raised by the protest).

(c) Not more than sixty (60) days after receipt of notice of the association's determination with respect to a protest, the protesting member insurer may appeal the determination to the commissioner.

(d) Instead of making a determination with respect to a protest based on a question regarding the assessment base, the association may refer the protest to the commissioner for a determination, with or without a recommendation from the association.

(e) If a protest of an assessment is upheld, the amount paid by the protesting member insurer in error or excess must be returned to the member insurer. Interest on a refund due to a protesting member insurer must be paid at the rate actually earned by the association.

SECTION 20. IC 27-8-8-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.5. (a) The association may request information from a member insurer to aid in the exercise of the association's power under sections 6 and 6.2 of this chapter.

(b) A member insurer that receives a request under subsection (a) shall promptly comply with the request.

SECTION 21. IC 27-8-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The association shall submit to the commissioner a plan of operation and any amendments to the plan of operation that are necessary or appropriate to assure the fair, reasonable, and equitable administration of the association. The plan of operation is and an amendment to the plan of operation are effective:

(1) if the plan or amendment is not disapproved by the commissioner within thirty (30) days after being submitted to the commissioner; or

(2) upon the commissioner's written approval, which must be written. All member insurers must comply with the plan of operation; if sooner than the time set in subdivision (1).

(b) If the association fails to submit a suitable plan of operation within one hundred eighty (180) days from September 1, 1978, or if at any other time the association fails to submit suitable amendments to the plan, the commissioner shall adopt rules under IC 4-22-2 necessary to effectuate the provisions of this chapter. The rules continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner.

(c) A member insurer shall comply with the plan of operation.

(γ) (d) The plan of operation must, in addition to requirements stated elsewhere in this chapter establish:

(1) procedures for handling the assets of the association;

(2) the amount and method of reimbursing members of the board of directors under section 4 of this chapter;

(3) regular places and times for meetings, including, if desired by the association, telephone conference calls, of the board of directors;

(4) procedures for records to be kept of all financial transactions of the association, its agents, and the board; of directors;

(5) procedures whereby selections for the board of directors will be made and submitted to the commissioner; and

(6) any additional procedures for assessments under sections 6 and 6.2 of this chapter.

(γ) The plan of operation may contain additional provisions necessary or appropriate for the execution of the powers and duties of the association.

(γ) (e) The plan of operation may provide that any or all powers and duties of the association, except those under subdivision (γ) (m)(3) and section sections 5(r)(3), 6, 6.2, and 6.5 of this chapter, may be delegated to a corporation, association, or other organization that performs or will perform functions similar to those of the
association, or its equivalent, in two (2) or more states. The corporation, association, or organization is to must be recompensed for payments made on behalf of the association and is to must be paid for its performance of any function of the association. A delegation under this subsection takes effect only when open with the approval of both the board of directors and the commissioner and may be made only to a corporation, association, or organization that extends protection that is not substantially similar to less favorable and effective than that provided by this chapter.

(1) To the extent and in the manner specified in the plan of operation, the board may create one (1) or more committees, each of which may exercise the authority of the board to the extent specified in the plan of operation or by the board.

SECTION 22. IC 27-8-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The commissioner shall do the following:

1. Upon request of the board, of directors; provide the association with a statement of the premiums in the Indiana and other appropriate states for each member insurer.

2. When an impairment is declared and the amount of the impairment is determined, serve a demand on the impaired insurer to make good the impairment within a reasonable time. Notice to the impaired insurer shall constitute notice to its shareholders. The failure of the insurer to promptly comply with the demand shall not excuse the association from the performance of its powers and duties under this chapter.

3. In any liquidation or rehabilitation proceeding involving a domestic insurer, be appointed as the liquidator or rehabilitator.

4. If a foreign or alien member insurer is subject to a liquidation proceeding in its domiciliary jurisdiction or state of entry, be appointed conservator.

(b) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in Indiana of a member insurer who fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a forfeiture on a member insurer who fails to pay an assessment when due. A forfeiture shall not exceed five percent (5%) of the unpaid assessment per month, but no forfeiture shall be less than one hundred dollars ($100) per month.

(c) Any final action of the association or the board of directors or the association may be appealed to the commissioner by a member insurer if the appeal must be taken within thirty (30) sixty (60) days of the member insurer's receipt of notice of the final action being appealed. A final action or order of the commissioner is subject to judicial review in a court with jurisdiction in accordance with the Indiana law that applies to the actions or orders of the commissioner.

(d) The liquidator, rehabilitator, or conservator of an impaired insurer or insolvent insurer must may notify all interested persons of the effect of this chapter.

SECTION 23. IC 27-8-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) To aid in the detection and prevention of insurer insolvencies or impairments, the commissioner shall do the following:

1. Notify the commissioner insurance regulatory authorities of all the other states territories of the United States and the District of Columbia not more than thirty (30) days after the date an action taken by the commissioner occurs when he the commissioner takes any of the following actions against a member insurer:

   (A) Revokes its license; the member insurer's certificate of authority.

   (B) Suspends its license; the member insurer's certificate of authority.

   (C) Makes any issues a formal order that a company the member insurer restrict its premium writing, obtain additional contributions to surplus, withdraw from Indiana, reinure all or any part of its business, or increase capital, surplus, or any other account for the security of policyholders policy owners or creditors.

2. Report to the board of directors association when he the commissioner takes any of the actions set forth in subdivision 

   (ct)(1) or when he the commissioner has received a report from any other commissioner insurance regulatory authority indicating that an action has been taken in another state. The report to the board of directors association must contain all significant details of the action taken or of the report received from another commissioner insurance regulatory authority.

3. Report to the board of directors association when he the commissioner has reasonable cause to believe from any an examination, whether completed or in process, of a member insurer or a group of member insurers that the member insurer may be an impaired or insolvent insurer and

4. Furnish to the board of directors the NAIC Early Warning Tests association the NAIC Insurance Regulatory Information System (IRIS) ratios and listings of companies not included in the ratios developed by the National Association of Insurance Commissioners. The board association may use the information contained in those tests the ratios and listings in carrying out its duties and responsibilities under this chapter. The report shall and the information contained in the report must be kept confidential by the association until made public by the commissioner or other lawful authority.

(b) The notice required under subdivision (a)(1) must be mailed to all commissioners within thirty (30) days from the action taken.

(c) The association may, upon majority vote by the board, of directors make reports and recommendations to the commissioner on any matter related germane to the solvency, liquidation, rehabilitation, or conservation of a member insurer or related germane to the solvency of any company seeking to do an insurance business in Indiana. The reports and recommendations are not public documents.

(d) The association may, upon majority vote by the board, of directors notify the commissioner of any information indicating that a member insurer may be impaired or insolvent.

(e) Upon majority vote, the board of directors may request that the commissioner order an examination of a member insurer the board believes to be impaired or insolvent. Within thirty (30) days of the receipt of the request, the commissioner shall begin an examination. The examination may be conducted as a National Association of Insurance Commissioners examination or may be conducted by persons designated by the commissioner. The cost of the examination shall be paid by the association and the examination report shall be treated as all other examination reports. In no event may the examination report be released to the board of directors before its release to the public; but this does not preclude the commissioner from complying with subsections (c) and (d) of this section. The commissioner shall notify the board of directors when the examination is completed. The request for an examination is to be kept on file by the commissioner but it is not open to public inspection before the release of the examination.

(e) The association may, upon majority vote by the board, of directors may make recommendations to the commissioner for the detection and prevention of insurer insolvencies.

(f) The board of directors shall, at the conclusion of an insurer insolvency in which the association was obligated to pay covered claims; prepare a report to the commissioner containing information on the history and causes of the insolvency. The board shall also cooperate with the boards of directors of guaranty associations in other states in preparing a report on the history and causes for insolvency of an insurer, and may adopt by reference any report prepared by other associations.

SECTION 24. IC 27-8-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Nothing in this chapter shall be construed as reducing the liability for unpaid assessments of the insurers on an impaired or insolvent insurer operating under a plan with assessment liability.
(a) Records must be kept of all negotiations and meetings in which the association or its representatives were involved in discussing the board to discuss the activities of the association in carrying out its powers and duties under sections 5, 5.2, and 5.4 of this chapter. Records of negotiations or meetings are to be made public only upon the association with respect to an impaired insurer or insolvent insurer must not be disclosed except:

1. After the termination of the liquidation, rehabilitation, or conservation proceeding involving the impaired insurer or insolvent insurer; or

2. Court order.

(b) No dividend. A distribution described in subsection (a) is not recoverable if the insurer shows that when the dividend distribution was paid the distribution was lawful and reasonable, and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual, the insurer’s policy and contract obligations.

(c) A person who was an affiliate controlling that controlled the insurer at the time the distributions were a distribution described in subsection (a) was paid is liable up to the amount of distributions he the person received. A person who was an affiliate controlling that controlled the insurer at the time the distributions were declared shall be liable up to the amount of distributions that would have been received if the distributions had been paid immediately. If two or more persons are liable with respect to the same distributions, they are jointly and severally liable.

(d) The maximum amount recoverable under this section shall be the amount needed in excess of all other available assets of the insolvent insurer to pay the contractual policy and contract obligations of the insolvent insurer.

(e) If a person liable under this section subsection (c) is insolvent, the affiliates controlling that controlled the person at the time the dividend distribution was paid shall be jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

SECTION 15. IC 27-8-8-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) A member insurer and its agents and employees, the association and its affiliates and the association’s agents and employees, members of the board of directors or representatives of the members of the board, and the commissioner and the commissioner’s representatives are not liable for and no cause of action of any nature arises or may be brought against them because of their performance or in connection with an action or omission by any of them in the exercise and performance of their rights, powers, and duties under this chapter.

(b) Immunity under this section extends to:

1. The participation in an organization of one (1) or more other state associations of similar purpose; and
2. An organization described in subsection (1) and an agent or employee of the organization.
calendar year following the year in which those assessments were made. The assessment was paid until the assessment has been offset by either credits against the taxes or refunds from the association. If the aggregate of those member insurer ceases doing business, all uncredited assessments have been offset by either credits against those may be credited against the member insurer's premium taxes, adjusted gross income taxes, or refunds from the association; or

(2) include in the rates and premiums charged for insurance policies to which this chapter applies amounts sufficient to recoup a sum equal to the amounts paid to the association by the member insurers any amounts returned is a combination of the premium taxes and adjusted gross income taxes of the member insurer by the association and the rates are not excessive by virtue of including an amount reasonably calculated to recoup assessments paid by the member for the year the member insurer ceases doing business.

SECTION 30. IC 27-8-8-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) Sums acquired by refund under section 6(m) of this chapter from the association that have been written off by member insurers and offset against taxes as provided by section 16 of this chapter and not needed for the purposes of this chapter shall be paid by the member insurers to the state in the manner required by the tax authorities.

(b) The association shall notify the commissioner for deposit with the state treasurer for deposit in the general fund: when refunds under section 6 of this chapter have been made.

SECTION 31. IC 27-8-8-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) A person, including an insurer, insurance producer, employee, agent, or affiliate of an insurer, shall not make, publish, disseminate, circulate, or place before the public or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television station, or in any other way, an advertisement, announcement, or a statement, written or oral, that uses the existence of the association for the purpose of rates, the sale of, solicitation of, or inducement to purchase any form of insurance covered by this chapter. This section does not apply to the association or any other entity that does not sell or solicit insurance. (b) Not later than January 1, 2007, the association shall:

(1) prepare a summary document:

(A) describing the general purposes and current limitations of this chapter; and

(B) complying with subsection (c); and

(2) submit the summary document to the commissioner for approval.

Sixty (60) days after the date on which the commissioner approves the summary document, a member insurer may not deliver a policy or contract to a policy or contract owner unless the summary document is delivered to the policy or contract owner at the time of delivery of the policy or contract. The summary document must also be available upon request by a policy owner. The distribution, delivery, or contents or interpretation of the summary document does not guarantee that the policy or contract or the owner of the policy or contract is covered in the event of the impairment or insolvency of a member insurer. The summary document must be revised by the association as amendment to this chapter requires. Failure to receive the summary document does not give a policy owner, a contract owner, a certificate holder, or an insured greater rights than the rights specified in this chapter.

(c) The summary document prepared under subsection (b) must contain a clear and conspicuous disclaimer on the face of the summary document. The commissioner shall approve the form and content of the disclaimer. The disclaimer must, at a minimum, convey all the following:

(1) State the name and address of the association and the department of insurance.

(2) Prominently warn that:

(A) the association might not cover the policy or contract; and

(B) even if coverage were currently provided, coverage is:

(i) subject to substantial limitations and exclusions;

(ii) generally conditioned on continued residence in Indiana; and

(iii) subject to possible change as a result of future amendments to this chapter and court decisions.

(3) State the types of policies for which the association currently provides coverage.

(4) State that the member insurer and the member insurer's agents are prohibited by law from using the existence of the association for the purpose of selling, soliciting, or inducing purchase of any form of insurance.

(5) State that the policy owner or contract owner should not rely on coverage under this chapter when selecting an insurer.

(6) Explain:

(A) rights available following; and

(B) procedures for filing a complaint to allege;

a violation of any provision of this chapter.

(7) Provide other information as directed by the commissioner, including sources for information that:

(A) is not proprietary; and

(B) is subject to disclosure under IC 5-14-3; concerning the financial condition of an insurer.

(d) A member insurer shall retain evidence of compliance with subsection (b) until the policy or contract for which the notice is given is no longer in effect.

SECTION 32. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 27-8-8-1; IC 27-8-8-1.5. SECTION 33. IC 27-1-20-34 IS REPEALED [EFFECTIVE JULY 1, 2006].

SECTION 34. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 27-8-8-2, as amended by this act, apply throughout this SECTION.

(b) The association's coverage obligations under IC 27-8-8 with respect to a member insurer that has a coverage date before the effective date of this act are not affected by changes made by this act.

(c) The association's coverage obligations under IC 27-8-8 with respect to a member insurer that has a coverage date before the effective date of this act are governed by IC 27-8-8 as it existed on January 1, 2006.

SECTION 35. [EFFECTIVE JULY 1, 2006] (a) The definitions in IC 27-1-29.1 apply throughout this SECTION.

(b) This SECTION applies to a member that:

(1) has been a member of the fund for at least ten (10) years; and

(2) provided a withdrawal notice in 2005 for the 2006 calendar year insured period.

(c) A member described in subsection (b) may:

(1) withdraw from the fund with proper notice; and

(2) elect to receive a one-time rebate of fifteen percent (15%) of the member's prior assessments, not to exceed one million dollars ($1,000,000), from the reserve account established under IC 27-1-29.1-B to establish a self-insured retention account.

(d) The association shall pay a rebate described in subsection (c) to a member making an election under subsection (c) at any time the reserve account exceeds the five million dollar ($5,000,000) balance required under IC 27-1-29.1-8(a).

(e) Notwithstanding IC 27-1-29.1-21, after a member described in this SECTION withdraws from the fund and receives a rebate under this SECTION:

(1) the member is released from all liability to the fund related to claims based on acts or omissions of other members that took place while the member was a member of the fund; and

(2) the fund is released from all liability related to claims based on acts or omissions of the member that took place while the member was a member of the fund.

(f) This SECTION expires December 31, 2008.
SECTION 36. An emergency is declared for this act.
(Reference is to EHB 1392 as printed February 17, 2006.)

RIPLEY
PAUL
FRY
LEWIS
House Conferrees
Senate Conferrees

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

CONFERENCE COMMITTEE REPORT
ESB 47–1; filed March 13, 2006, at 9:46 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 47 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 10-13-3-36, AS AMENDED BY P.L.177-2005, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 36. (a) The department may not charge a fee for responding to a request for the release of a limited criminal history record if the request is made by a nonprofit organization:

(1) that has been in existence for at least ten (10) years; and
(2) that:
   (A) has a primary purpose of providing an individual relationship for a child with an adult volunteer if the request is made as part of a background investigation of a prospective adult volunteer for the organization;
   (B) is a home health agency licensed under IC 16-27-1;
   (C) is a community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-39);
   (D) is a supervised group living facility licensed under IC 12-28-5;
   (E) is an area agency on aging designated under IC 12-10-1;
   (F) is a community action agency (as defined in IC 12-14-23-2);
   (G) is the provider, if the provider is an individual;
   (H) is a community mental health center (as defined in IC 12-7-2-38).

(b) Except as provided in subsection (d), the department may not charge a fee for responding to a request for the release of a limited criminal history record made by the division of family and children or a county office of family and children if the request is made as part of a background investigation of an applicant for a license under IC 12-17.2 or IC 12-17.4.

(c) The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made by a school corporation, special education cooperative, or public school corporation (as defined in IC 20-18-2-12) as part of a background investigation of a prospective or current employee or a prospective or current adult volunteer for the school corporation, special education cooperative, or public school corporation.

(d) As used in this subsection, "state agency" means an authority, a board, a branch, a commission, a committee, a department, a division, or another instrumentality of state government, including the executive and judicial branches of state government, the principal secretary of the senate, the principal clerk of the house of representatives, the executive director of the legislative services agency, a state elected official's office, or a body corporate and politic, but does not include a state educational institution (as defined in IC 20-12-0-5-1). The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made:

(1) by a state agency; and
(2) through the computer gateway that is administered by the office of technology established by IC 4-13.1-2-1.

(e) The department may not charge a fee for responding to a request for the release of a limited criminal history record made by the health professions bureau Indiana professional licensing agency established by IC 25-1-5-3 if the request is:

(1) made through the computer gateway that is administered by the office of technology; and
(2) part of a background investigation of a practitioner or an individual who has applied for a license issued by a board (as defined in IC 25-1-9-1).

(f) The department may not charge a church or religious society a fee for responding to a request for the release of a limited criminal history record if:

(1) the church or religious society is a religious organization exempt from federal income taxation under Section 501 of the Internal Revenue Code;
(2) the request is made as part of a background investigation of a prospective or current employee or a prospective or current adult volunteer; and
(3) the employee or volunteer works in a nonprofit program or ministry of the church or religious society, including a child care ministry registered under IC 12-17.2-6.

SECTION 2. IC 12-17.2-3.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. (a) Except as provided in subsection (b), a provider shall, at no expense to the state, maintain and make available to the division upon request a copy of a limited criminal history for:

(1) the provider, if the provider is an individual;
(2) if the provider operates a child care program in the provider's home, any individual who resides with the provider and who is:
   (A) at least eighteen (18) years of age;
   (B) less than eighteen (18) years of age but has previously been waived from juvenile court to adult court; and
   (3) any individual who:
      (A) is employed; or
      (B) volunteers;
      as a caregiver at the facility where the provider operates a child care program.

A provider shall apply for a limited criminal history for an individual described in subdivision (3) before the individual is employed or allowed to volunteer as a caregiver.

(b) In addition to the requirement under subsection (a), a provider shall report to the division any:

(1) police investigations;
(2) arrests; and
(3) criminal convictions;
not listed on a limited criminal history obtained under subsection (a) regarding any of the persons listed in subsection (a).

(c) A provider that meets the other eligibility requirements of this chapter is temporarily eligible to receive voucher payments until the provider receives the limited criminal history required under subsection (a) from the state police department if:

(1) the provider:
   (A) has applied for the limited criminal history required under subsection (a); and
   (B) obtains a local criminal history for the individuals described in subsection (a) from each individual's local law enforcement agency before the individual is employed or allowed to volunteer as a caregiver; and
(2) the local criminal history does not reveal that an individual has been convicted of a:
   (A) felony;
   (B) misdemeanor related to the health or safety of a child;
   (C) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or
   (D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35.

(d) A provider is ineligible to receive a voucher payment if an individual for whom a limited criminal history is required under this section has been convicted of:

(1) felony;
(2) misdemeanor related to the health or safety of a child;
(3) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or
(4) misdemeanor for operating a child care home without a
license under IC 12-17.2-5-35;
until the individual is dismissed from employment or volunteer service at the facility where the provider operates a child care program or no longer resides with the provider.
(c) A provider shall maintain a written policy requiring an individual for whom a limited criminal history is required under this section to report any criminal convictions of the individual to the provider.
(6) The state police department may not charge a church or religious society any fees or costs for responding to a request for a release of a limited criminal history record of a prospective or current employee or a prospective or current volunteer of a child care ministry registered under IC 12-17.2-6 if the conditions set forth in IC 10-13-3-36(f) are met.

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

CONFERENCE COMMITTEE REPORT
ESB 172-1; filed March 13, 2006, at 9:46 p.m.
Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 172 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 2, delete lines 31 through 38.

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

CONFERENCE COMMITTEE REPORT
EHB 1235-1; filed March 13, 2006, at 9:52 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 1235 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 16-18-2-194.5 IS ADDRESSED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 194.5, "Isolation", for purposes of IC 16-41-9, means the physical separation, including confinement or restriction, of an individual or a group of individuals from the general public if the individual or group is infected with a communicable disease (as described in IC 16-18-2-91 and 410 IAC 1-2.3-47), during the disease's period of communicability, in order to prevent or limit the transmission of the disease to an uninfected individual.

SECTION 2. IC 16-18-2-298.5 IS ADDRESSED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 298.5, "Public health authority", for purposes of IC 16-22-8 and IC 16-41-9, means:
(1) the state health commissioner of the state department;
(2) a deputy or an assistant state health commissioner appointed by the state health commissioner, or an agent expressly authorized by the state health commissioner;
(3) the local health officer;
or
(4) a health and hospital corporation established under IC 16-22-8-6.

SECTION 3. IC 16-18-2-302.6 IS ADDRESSED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 302.6, "Quarantine", for purposes of IC 16-41-9, means the physical separation, including confinement or restriction of movement, of an individual or a group of individuals who have been exposed to a dangerous communicable disease (as described in IC 16-18-2-91 and 410 IAC 1-2.3-47), during the disease's period of communicability, in order to prevent or limit the transmission of the disease to an uninfected individual.

SECTION 4. IC 16-21-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 4. With the approval of the budget director and upon the recommendation of the budget committee, each county that has incurred costs for a carrier (other than costs incurred under IC 16-41-9-11) under:
(1) IC 16-41-1; or
(2) IC 16-41-2; or
(3) IC 16-41-3; or
(4) IC 16-41-5; or
(5) IC 16-41-6; or
(6) IC 16-41-7; or
(7) IC 16-41-8; or
(8) IC 16-41-9; or
(9) IC 16-41-13;
is entitled to a pro rata share of the money remaining at the end of the state fiscal year in the fund established under this chapter.

SECTION 5. IC 16-22-8-31, AS AMENDED BY P.L.184-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 31. (a) The director of the division of public health has the powers, functions, and duties of a local health officer.

(b) Orders, citations, and administrative notices of violation issued by the director of the division of public health, the director's authorized representative, a supervisor in the division, or an environmental health specialist may be enforced by the corporation in a court with jurisdiction by filing a civil action in accordance with IC 16-42-5-28, IC 33-36-3.5(b), or IC 36-1-6-4.

(c) Orders; health directives; and restrictions issued by the state health commissioner, the state health commissioner's duly authorized agent, a designated health official; or the director of the division of public health A public health authority may be enforced by the corporation in a petition a circuit or superior court with jurisdiction for an order of isolation or quarantine by filing a civil action in accordance with IC 16-41-9-1.5 or IC 16-41-9-15.

IC 16-41-9.5.
(d) Unless otherwise provided by law, a change of venue from the county may not be granted for court proceedings initiated under this section.

SECTION 6. IC 16-41-9-1.5 IS ADDRESSED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 1.5. (a) If the public health authority has reason to believe that:
(1) an individual:
(A) has been infected with; or
(B) has been exposed to;
a dangerous communicable disease or outbreak; and
(2) the individual is likely to cause the infection of an uninfected individual if the individual is not restricted in the individual's ability to come into contact with an uninfected individual;
the public health authority may petition a circuit or superior court for an order imposing isolation or quarantine on the individual. A petition for isolation or quarantine filed under this subsection must be verified and include a brief description of the facts supporting the public health authority's belief that isolation or quarantine should be imposed on an individual, including a description of any efforts the public health authority made to obtain the individual's voluntary compliance with isolation or quarantine before filing the petition.
(b) Except as provided in subsections (c) and (k), an individual described in subsection (a) is entitled to notice and an opportunity to be heard, in person or by counsel, before a court issues an order imposing isolation or quarantine. A court may restrict an individual's right to appear in person if the court finds that the individual's personal appearance is likely to expose an uninfected person to a dangerous communicable disease or outbreak.
(c) If an individual is restricted from appearing in person
under subsection (b), the court shall hold the hearing in a manner that allows all parties to fully and safely participate in the proceedings under the circumstances.

(d) If the public health authority proves by clear and convincing evidence that:

1. an individual has been infected or exposed to a dangerous communicable disease or outbreak; and
2. the individual is likely to cause the infection of an uninfected individual if the individual is not restricted in the individual's ability to come into contact with an uninfected individual;
the court may issue an order imposing isolation or quarantine on the individual. The court shall establish the conditions of isolation or quarantine, including the duration of isolation or quarantine. The court shall impose the least restrictive conditions of isolation or quarantine that are consistent with the protection of the public.

(e) If the public health authority has reason to believe that an individual described in subsection (a) is likely to expose an uninfected individual to a dangerous communicable disease or outbreak before the individual can be provided with notice and an opportunity to be heard, the public health authority may seek in a circuit or superior court an emergency order of quarantine or isolation by filing a verified petition for emergency quarantine or isolation. The verified petition must include a brief description of the facts supporting the public health authority's belief that:

1. isolation or quarantine should be imposed on an individual; and
2. the individual may expose an uninfected individual to a dangerous communicable disease or outbreak before the individual can be provided with notice and an opportunity to be heard.
The verified petition must include a description of any efforts the public health authority made to obtain the individual's voluntary compliance with isolation or quarantine before filing the petition.

(f) If the public health authority proves by clear and convincing evidence that:

1. an individual has been infected or exposed to a dangerous communicable disease or outbreak;
2. the individual is likely to cause the infection of an uninfected individual if the individual is not restricted in the individual's ability to come into contact with an uninfected individual; and
3. the individual may expose an uninfected individual to a dangerous communicable disease or outbreak before the individual can be provided with notice and an opportunity to be heard;
the court may issue an emergency order imposing isolation or quarantine on the individual. The court shall establish the duration and other conditions of isolation or quarantine. The court shall impose the least restrictive conditions of isolation or quarantine that are consistent with the protection of the public.

(g) A court may issue an emergency order of isolation or quarantine without the verified petition required under subsection (e) if the court receives sworn testimony of the same facts required in the verified petition:

1. in a nonadversarial, recorded hearing before the judge;
2. orally by telephone or radio;
3. in writing by facsimile transmission (fax); or
4. through other electronic means approved by the court.
If the court agrees to issue an emergency order of isolation or quarantine based upon information received under subdivision (2), the court shall direct the public health authority to sign the judge's name and to write the time and date of issuance on the proposed emergency order. If the court agrees to issue an emergency order of isolation or quarantine based upon information received under subdivision (3), the court shall direct the public health authority to transmit a proposed emergency order to the court, which the court shall sign, add the date of issuance, and transmit back to the public health authority. A court may modify the conditions of a proposed emergency order.

(h) If an emergency order of isolation or quarantine is issued under subsection (g)(2), the court shall record the conversation on audiotape and order the court reporter to type or transcribe the recording for entry in the record. The court shall certify the audiotape, the transcription, and the order retained by the judge for entry in the record.

(i) If an emergency order of isolation or quarantine is issued under subsection (g)(3), the court shall order the court reporter to transcribe or copy the facsimile transmission for entry in the record. The court shall certify the transcription or copy and order retained by the judge for entry in the record.

(j) The clerk shall notify the public health authority who received an emergency order under subsection (g)(2) or (g)(3) when the transcription or copy required under this section is entered in the record. The public health authority shall sign the typed, transcribed, or copied entry upon receiving notice from the court reporter.

(k) The public health authority may issue an immediate order imposing isolation or quarantine on an individual if exigent circumstances, including the number of affected individuals, exist that make it impracticable for the public health authority to seek an order from a court, and obtaining the individual's voluntary compliance is or has proven impracticable or ineffective. An immediate order of isolation or quarantine expires after seventy-two (72) hours, excluding Saturdays, Sundays, and legal holidays, unless renewed in accordance with subsection (l). The public health authority shall establish the other conditions of isolation or quarantine. The public health authority shall impose the least restrictive conditions of isolation or quarantine that are consistent with the protection of the public. If the immediate order applies to a group of individuals and it is impracticable to provide individual notice, the public health authority shall post a copy of the order where it is likely to be seen by individuals subject to the order.

(l) The public health authority may seek to renew an order of isolation or quarantine or an immediate order of isolation or quarantine issued under this section by doing the following:

1. By filing a petition to renew the emergency order of isolation or quarantine or the immediate order of isolation or quarantine with:
   (A) the court that granted the emergency order of isolation or quarantine; or
   (B) a circuit or superior court, in the case of an immediate order.
The petition for renewal must include a brief description of the facts supporting the public health authority's belief that the individual who is the subject of the petition should remain in isolation or quarantine and a description of any efforts the public health authority made to obtain the individual's voluntary compliance with isolation or quarantine before filing the petition.
2. By providing the individual who is the subject of the emergency order of isolation or quarantine or the immediate order of isolation or quarantine with a copy of the petition and notice of the hearing at least twenty-four (24) hours before the time of the hearing.
3. By informing the individual who is the subject of the emergency order of isolation or quarantine or the immediate order of isolation or quarantine that the individual has the right to:
   (A) appear in person;
   (B) cross-examine witnesses; and
   (C) counsel, including court appointed counsel in accordance with subsection (c).
4. If:
   (A) the petition applies to a group of individuals; and
   (B) it is impracticable to provide individual notice;
by posting the petition in a conspicuous location on the isolation or quarantine premises.

(m) If the public health authority proves by clear and convincing evidence of a hearing under subsection (l) that:

1. an individual has been infected or exposed to a dangerous communicable disease or outbreak; and
2. the individual is likely to cause the infection of an uninfected individual if the individual is not restricted in the
individual's ability to come into contact with an uninfected individual; the court may renew the existing order of isolation or quarantine or issue a new order imposing isolation or quarantine on the individual. The court shall establish the conditions of isolation or quarantine, including the duration of isolation or quarantine. The court shall impose the least restrictive conditions of isolation or quarantine that are consistent with the protection of the public.

(n) Unless otherwise provided by law, a petition for isolation or quarantine, or a petition to renew an immediate order for isolation or quarantine, may be filed in a circuit or superior court in any county. Preferred venue for a petition described in this subsection is:

(1) the county or counties (if the area of isolation or quarantine includes more than one (1) county) where the individual, premises, or location to be isolated or quarantined is located; or
(2) a county adjacent to the county or counties (if the area of isolation or quarantine includes more than one (1) county) where the individual, premises, or location to be isolated or quarantined is located.

This subsection does not preclude a change of venue for good cause shown.

(o) Upon the motion of any party, or upon its own motion, a court may consolidate cases for a hearing under this section if:

(1) the number of individuals who may be subject to isolation or quarantine, or who are subject to isolation or quarantine, is so large as to render individual participation impractical;
(2) the law and the facts concerning the individuals are similar; and
(3) the individuals have similar rights at issue.

A court may appoint an attorney to represent a group of similarly situated individuals if the individuals can be adequately represented. An individual may retain his or her own counsel or proceed pro se.

(p) A public health authority that imposes a quarantine that is not in the person's home:

(1) shall allow the parent or guardian of a child who is quarantined under this section; and
(2) may allow an adult;

to remain with the quarantined individual in quarantine. As a condition of remaining with the quarantined individual, the public health authority may require a person described in subdivision (q) who has not been exposed to a dangerous communicable disease to receive an immunization or treatment for the disease or condition, if an immunization or treatment is available and if requiring immunization or treatment does not violate a constitutional right.

(q) If an individual who is quarantined under this section is the sole parent or guardian of one (1) or more children who are not quarantined, the child or children shall be placed in the residence of a relative, friend, or neighbor of the quarantined individual until the quarantine period has expired. Placement under this subsection must be in accordance with the directives of the parent or guardian, if possible.

(r) State and local law enforcement agencies shall cooperate with the public health authority in enforcing an order of isolation or quarantine.

(s) The court shall appoint an attorney to represent an indigent individual in an action brought under this chapter or under IC 16-41-6. If funds to pay for the court appointed attorney are not available from any other source, the state department may use the proceeds of a grant or loan to reimburse the county, state, or attorney for the costs of representation.

(t) A person who knowingly or intentionally violates a condition of isolation or quarantine under this chapter commits violating quarantine or isolation, a Class A misdemeanor.

(u) The state department shall adopt rules under IC 4-22-2 to implement this section, including rules to establish guidelines for:

(1) voluntary compliance with isolation and quarantine;
(2) quarantine locations and logistical support; and
(3) moving individuals to and from a quarantine location.

The absence of rules adopted under this subsection does not preclude the public health authority from implementing any provision of this section.

SECTION 7. IC 16-41-9-1.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1.6. (a) A public health authority may impose or petition a court to impose a quarantine and do the following:

(1) Distribute information to the public concerning:

(A) the risks of the disease;
(B) how the disease is transmitted;
(C) available precautions to reduce the risk of contracting the disease;
(D) the symptoms of the disease; and
(E) available medical or nonmedical treatments available for the disease.

(2) Instruct the public concerning social distancing.

(3) Request that the public inform the public health authority or a law enforcement agency if a family member contracts the disease.

(4) Instruct the public on self quarantine and provide a distinctive means of identifying a home that is self quarantined.

(5) Instruct the public on the use of masks, gloves, disinfectant, and other means of reducing exposure to the disease.

(6) Close schools, athletic events, and other nonessential situations in which people gather.

(7) If a quarantine is imposed under section 1.5 of this chapter, the public health authority shall ensure that, to the extent possible, quarantined individuals have sufficient supplies to remain in their own home.

(b) If an out of home, nonhospital quarantine is imposed on an individual, the individual shall be housed as close as possible to the individual’s residence.

(c) In exercising the powers described in this section or in section 1.5 of this chapter, the public health authority may not prohibit a person lawfully permitted to possess a firearm from possessing one (1) or more firearms unless the person is quarantined in a mass quarantine location. The public health authority may not remove a firearm from the person’s home, even if the person is quarantined in a mass quarantine location.

(d) This section does not prohibit a public health authority from adopting rules and enforcing rules to implement this section if the rules are not inconsistent with this section.

SECTION 8. IC 16-41-9-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1.7. (a) An immunization program established by a public health authority to combat a public health emergency involving a dangerous communicable disease must comply with the following:

(1) The state department must develop and distribute or post information concerning the risks and benefits of immunization.

(2) No person may be required to receive an immunization without that person’s consent. No child may be required to receive an immunization without the consent of the child’s parent, guardian, or custodian. The state department may implement the procedures described in section 1.5 of this chapter concerning a person who refuses to receive an immunization or the child of a parent, guardian, or custodian who refuses to consent to the child receiving an immunization.

(b) The state department shall adopt rules to implement this section. The absence of rules adopted under this subsection does not preclude the public health authority from implementing any provision of this section.

SECTION 9. IC 16-41-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) A designated health official. The local health official may file a report with the court that states that a carrier who has been detained under this article may be discharged without danger to the health or life of others.

(b) The court may enter an order of release based on information presented by the designated health official or local health officer or
other sources.

SECTION 10. IC 16-41-9-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) The court shall determine what part of the cost of care or treatment ordered by the court, if any, the carrier can pay and whether there are other available sources of public or private funding responsible for payment of the carrier's care or treatment. The carrier shall provide the court documents and other information necessary to determine financial ability. If the carrier cannot pay the full cost of care and other sources of public or private funding responsible for payment of the carrier's care or treatment are not available, the county is responsible for the cost. If the carrier:

(1) provides inaccurate or misleading information; or
(2) later becomes able to pay the full cost of care;

the carrier becomes liable to the county for costs paid by the county.

(b) Except as provided in subsections (c) and (d), the costs incurred by the county under this chapter are limited to the costs incurred under section 14 of this chapter.

(c) However, subsection (b) does not relieve the county of the responsibility for the costs of a carrier who is ordered by the court under this chapter to a county facility.

(d) Costs, other than costs described in subsections (b) and (c) that are incurred by the county for care ordered by the court under this chapter, shall be reimbursed by the state under IC 16-21-7 to the extent funds have been appropriated for reimbursement.

SECTION 11. IC 16-42-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) An organization that is:

(1) organized for nonreligious or noneducational purposes;
(2) exempt from the state gross retail tax under IC 6-2-5-5-21(b)(1)(B), IC 6-2-5-5-21(b)(1)(C), or IC 6-2-5-5-21(b)(1)(D); and
(3) that offers food for sale to the final consumer at an event held for the benefit of the organization;

is exempt from complying with the requirements of this chapter that may be imposed upon the sale of food at that event if the following conditions are met:

(1) Members of the organization prepare the food that will be served.
(2) Events conducted by the organization under this section take place for not more than thirty (30) days in a calendar year.

(3) The name of each member who has prepared a food item is attached to the container in which the food item has been placed.

(b) An organization:

(1) that is organized for:
   - (A) religious; or
   - (B) educational purposes in a non-public educational setting;

(2) that is exempt from the state gross retail tax under IC 6-2-5-5-21(b)(1)(B), IC 6-2-5-5-21(b)(1)(C), or IC 6-2-5-5-21(b)(1)(D); and

(3) that offers food for sale to the final consumer at an event held for the benefit of the organization;

is exempt from complying with the requirements of this chapter that may be imposed upon the sale of food at that event unless the food is being provided in a restaurant or a cafeteria with an extensive menu of prepared foods.

(c) A restaurant or cafeteria setting described in subsection (b) does not include the following:

(1) A pitch in.
(2) A bake sale.
(3) A fish fry, chili supper, spaghetti supper, or similar event with a limited menu.
(4) Food prepared by a licensed retail food establishment.
(5) A concession stand.
(6) Heating or serving precooked foods.
(7) Preparing or serving a continental breakfast such as rolls, coffee, juice, milk, and cold cereal.
(8) Preparing or serving nonalcoholic or alcoholic beverages that are not potentially hazardous beverages or ice.
(9) Preparing or serving packaged or unpackaged foods that are not potentially hazardous foods, including elephant ears, funnel cakes, cotton candy, confections, breaded goods, popcorn, and chips and grinding coffee beans.

(10) Providing prepackaged food in the food's original package.

(d) This section does not prohibit an exempted organization from waiving the exemption and applying for a license under this chapter.

(e) It is recommended that an organization that is exempt under this section should still follow safe food handling practices.

(f) This section expires January 1, 2008.

SECTION 12. IC 34-6-2-55 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 55. (a) "Health care services", for purposes of IC 34-30-13, has the meaning set forth in IC 27-13-1-18(a).

(b) "Health care services", for purposes of IC 34-30-13.5, means:

(1) any services provided by an individual licensed under:
   - (A) IC 25-2.5;
   - (B) IC 25-10;
   - (C) IC 25-13;
   - (D) IC 25-14;
   - (E) IC 25-22.5;
   - (F) IC 25-23;
   - (G) IC 25-23.5;
   - (H) IC 25-23.6;
   - (I) IC 25-24;
   - (J) IC 25-26;
   - (K) IC 25-27;
   - (L) IC 25-27.5;
   - (M) IC 25-29;
   - (N) IC 25-33;
   - (O) IC 25-34.5; or
   - (P) IC 25-35.6;

(2) services provided as the result of hospitalization;

(3) services incidental to the furnishing of services described in subdivisions (1) or (2);

(4) any services by individuals certified as:
   - (A) paramedics;
   - (B) emergency medical technicians-intermediate;
   - (C) emergency medical technicians-advanced;
   - (D) emergency medical technicians basic-advanced; or
   - (E) emergency medical technicians under IC 16-31-2;

(5) any services provided by individuals certified as first responders under IC 16-31-2; or

(6) any other services or goods furnished for the purpose of preventing, alleviating, curing, or healing human illness, physical disability, or injury.

SECTION 13. IC 34-30-13.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 13.5. Health Care: Immunity for Persons Providing Services in a Disaster

Sec. 1. Except as provided in section 2 of this chapter, a person who meets the following criteria may not be held civilly liable for an act or omission relating to the provision of health care services in response to an event that is declared as a disaster emergency under IC 10-14-3-12, regardless of whether the provision of health care services occurred before or after the declaration of a disaster emergency:

(1) Has a license to provide health care services under Indiana law or the law of another state.

(2) Provides a health care service:
   - (A) within the scope of the person's license to another person; and
   - (B) at a location where health care services are provided during an event that is declared as a disaster.

Sec. 2. A person described in this chapter is not immune from civil liability if the damages resulting from the act or omission relating to the provision of the health care services resulted from the person's gross negligence or willful misconduct.

Sec. 3. A facility or other location that is providing health care services in response to an event that is declared as a disaster emergency may not be held civilly liable for an act or omission relating to the provision of health care services in response to that
event by a health professional licensed to provide the health care service under Indiana law or the law of another state if the person is acting during an event that is declared as a disaster emergency, regardless of whether the provision of health care services occurred before or after the declaration of a disaster emergency.

SECTION 14. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 16-41-9-1; IC 16-41-9-2; IC 16-41-9-4; IC 16-41-9-11; IC 16-41-9-14.

SECTION 15. [EFFECTIVE JULY 1, 2006] IC 16-41-9-1.5(t), as added by this act, applies only to crimes committed after June 30, 2006.

SECTION 16. [EFFECTIVE JULY 1, 2006] In carrying out its duties under IC 16-41-9, a public health authority (as defined in IC 16-18-2-298.5, as added by this act) shall attempt to seek the cooperation of cases, carriers, contacts, or suspect cases to implement the least restrictive but medically necessary procedures to protect the public health.

(Reference is to EHB 1235 as reprinted February 28, 2006.)

RUPPEL MILLER
WELCH BREAUX
House Conferences Senate Conferences

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

CONFERENCE COMMITTEE REPORT
ESB 333-1; filed March 13, 2006, at 9:56 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 333 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 4-1-8-1, AS AMENDED BY SEA 132-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) No individual may be compelled by any state agency, board, commission, department, bureau, or other entity of state government (referred to as "state agency" in this chapter) to provide the individual's Social Security number to the state agency against the individual's will, absent federal requirements to the contrary. However, the provisions of this chapter do not apply to the following:

(1) Department of state revenue.
(2) Department of workforce development.
(3) The programs administered by:
   (A) the division of family resources;
   (B) the division of mental health and addiction;
   (C) the division of disability, aging, and rehabilitative services;
   and
   (D) the office of Medicaid policy and planning;
   of the office of the secretary of family and social services.
(4) Auditor of state.
(5) State personnel department.
(6) Secretary of state, with respect to the registration of broker-dealers, agents, and investment advisors.
(7) The legislative ethics commission, with respect to the registration of lobbyists.
(8) Indiana department of administration, with respect to bidders on contracts.
(9) Indiana department of transportation, with respect to bidders on contracts.
(10) Indiana professional licensing agency.
(11) Department of insurance, with respect to licensing of insurance producers.
(12) The department of child services.
(13) A pension fund administered by the board of trustees of the public employees' retirement fund.
(14) The Indiana state teachers' retirement fund.
(15) The state police benefit system.
(16) The alcohol and tobacco commission.
(17) The state department of health, for purposes of licensing radiologic technologists under IC 16-41-35-29(c).
(b) The bureau of motor vehicles may, notwithstanding this chapter, require the following:
(1) That an individual include the individual's Social Security number in an application for a riverboat owner's license, supplier's license, or occupational license.
(2) That a sole proprietorship, a partnership, an association, a fiduciary, a corporation, a limited liability company, or any other business entity include its federal tax identification number on an application for a riverboat owner's license or supplier's license.
(f) Notwithstanding this chapter, the department of education established by IC 20-19-3-1 may require an individual who applies to the department for a license or an endorsement to provide the individual's Social Security number. The Social Security number may be used by the department only for conducting a background investigation, if the department is authorized by statute to conduct a background investigation of an individual for issuance of the license or endorsement.

SECTION 2. IC 15-5-1-1.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. As used in this chapter:
"Accredited college of veterinary medicine" means a veterinary college or division of a university or college that:
(1) offers the degree doctor of veterinary medicine or its equivalent;
(2) conforms to the standards required for accreditation by the American Veterinary Medical Association; and
(3) is accredited by the American Veterinary Medical Association or an accrediting agency that has been approved by the United States Department of Education or its successor.
"Agency" refers to the Indiana professional licensing agency established by IC 25-1-5-3.
"Animal" means any animal other than man and includes birds, fish, mammals, and reptiles, wild or domestic.
"Approved program" means a program in veterinary technology that:
(1) conforms to the standards required for accreditation by the American Veterinary Medical Association; and
(2) is accredited by the American Veterinary Medical Association or an accrediting agency that has been approved by the United States Department of Education or its successor.
"Board" means the Indiana board of veterinary medical examiners created by this chapter.
"Bureau" refers to the health professions bureau established by IC 25-1-5-3.
"ECFVG certificate" means a certificate issued by the American Veterinary Medical Association Educational Commission for Foreign Veterinary Graduates, indicating that the holder has demonstrated knowledge and skill equivalent to that possessed by a graduate of an accredited college of veterinary medicine.
"Extern" means a senior veterinary student enrolled in an accredited college of veterinary medicine, or a second year student
enrolled in an approved program in veterinary technology, employed by or working with a licensed veterinarian and under the licensed veterinarian’s direct supervision.

"Licensed veterinarian" means an individual who is licensed pursuant to this chapter to practice veterinary medicine in this state.

"Person" means an individual, an incorporated or unincorporated organization or association, or a group of such persons acting in concert.

"Practice of veterinary medicine" means:

(1) representing oneself as engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry in any of its branches or using words, letters, or titles in a connection or under circumstances that may induce another person to believe that the person using them is engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry;

(2) accepting remuneration for doing any of the things described in subdivisions (3) through (6);

(3) diagnosing a specific disease or injury, or identifying and describing a disease process of animals, or performing any procedure for the diagnosis of pregnancy, sterility, or infertility upon animals;

(4) prescribing a drug, medicine, appliance or application, or treatment of whatever nature for the prevention, cure, or relief of bodily injury or disease of animals;

(5) performing a surgical or dental operation upon an animal; or

(6) administering a drug, medicine, appliance, application, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, or bodily injury or disease of animals, except where such drug, medicine, appliance, application, or treatment is administered at the direction and under the direct supervision of a veterinarian licensed under this chapter.

"Registered veterinary technician" means a veterinary technician registered pursuant to this chapter to work under the direct supervision of a licensed veterinarian.

"Veterinarian" means an individual who was a licensed veterinarian on August 31, 1979, or who has received a professional degree from an accredited college of veterinary medicine.

"Veterinary medicine" includes veterinary surgery, obstetrics, dentistry, acupuncture, and all other branches or specialties of veterinary medicine.

"Veterinary technician" means an individual who has successfully completed a program in veterinary technology of at least two (2) years in a school that conforms to the standards required for accreditation by the American Veterinary Medical Association and that is accredited by the American Veterinary Medical Association.

SECTION 3. IC 15-5-1-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2006]: Sec. 12. (a) The board shall hold at least one (1) examination for licensing veterinarians and one (1) examination for registering veterinary technicians each year but it may hold more. The bureau agency shall give notice of the time and place for each examination at least ninety (90) days in advance of the date set for the examination. A person desiring to take an examination must make application not later than the time the board may prescribe under section 8(c) of this chapter.

(b) The preparation, administration, and grading of examinations shall be approved by the board. Examinations shall be designed to test the examinee’s knowledge of and proficiency in the subjects and techniques commonly taught in veterinary schools. To pass the examination, the examinee must demonstrate scientific and practical knowledge sufficient to prove to the board that the examinee is competent to practice veterinary medicine or to act as a veterinary technician, as the case may be. The board may adopt and use examinations approved by the National Board Examination Committee of Veterinary Medical Examiners.

(c) To qualify for a license as a veterinarian or to be registered as a veterinary technician, the applicant must attain a passing score in the examination.

(d) After the examinations, the bureau agency shall notify each examinee of the result of the examinee’s examinations and the board shall issue a license or registration certificate, as appropriate, to each individual who successfully completes the examinations and is otherwise qualified. The bureau agency shall keep a permanent record of the issuance of each license or registration certificate.

(e) An individual who fails to pass the required examinations may apply to take a subsequent examination. However, payment of the examination fee shall not be waived.

(f) If an applicant fails to pass the required examination within three (3) attempts in Indiana or any other state, the applicant may not retake the required examination. The applicant may take subsequent examinations upon approval by the board and completion of remedial education as required by the board.

(g) A license or registration certificate issued under this article is valid for the remainder of the renewal period in effect on the date of issuance.

SECTION 4. IC 16-39-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) This section applies to all health records except mental health records, which are governed by IC 16-39-2, IC 16-39-3, and IC 16-39-4.

(b) This article applies to all health records, except:

(1) records regarding communicable diseases, which are governed by IC 16-41-8-1; or

(2) records regarding alcohol and other drug abuse patient records, which are governed by 42 CFR, Part 2.

(c) On written request and reasonable notice, a provider shall supply to a patient the health records possessed by the provider concerning the patient. Subject to 15 U.S.C. 7601 et seq. and 16 CFR Part 315, information regarding contact lenses must be given using the following guidelines:

(1) After the release of a patient from an initial fitting and follow-up period of not more than six (6) months, the contact lens prescription must be released to the patient at the patient's request.

(2) A prescription released under subdivision (1) must contain all information required to properly duplicate the contact lenses.

(3) A contact lens prescription must include the following:

(A) An expiration date of not more than one (1) year.

(B) The number of refills permitted.

(4) Instructions for use must be consistent with:

(A) recommendations of the contact lens manufacturer;

(B) clinical practice guidelines; and

(C) the professional judgment of the prescribing optometrist or physician licensed under IC 25-22.5.

After the release of a contact lens prescription under this subsection, liability for future fittings or dispensing of contact lenses under the original prescription lies with the dispensing company or practitioner.

(d) On a patient's written request and reasonable notice, a provider shall furnish to the patient or the patient's designee the following:

(1) A copy of the patient's health record used in assessing the patient's health condition.

(2) At the option of the patient, the pertinent part of the patient's health record relating to a specific condition, as requested by the patient.

(e) A request made under this section is valid for sixty (60) days after the date the request is made.

SECTION 5. IC 16-41-35-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. (a) The state department shall adopt rules under IC 4-22-2 to regulate who may operate a radiation machine and what level of training and experience the operator must have. Rules adopted by the state department must exempt from testing to establish initial qualifications an individual who:

(1) holds a valid certificate issued by; and

(2) is currently registered with;

the American Registry of Radiologic Technologists.

(b) The state department may by rule exempt an individual who:

(1) is currently licensed in another state as a radiologic technician; or

(2) performs the function of a radiologic technologist in another state that does not require the licensure of a radiologic technologist from testing to establish initial qualifications.

(c) The state department shall issue a license to an individual meeting the requirements of the rules adopted under subsection (a) for a radiologic technologist upon the payment to the state department of a sixty dollar ($60) fee and the cost of testing to establish initial qualifications. The license is valid for twenty-four (24) months.
state department shall establish a fee for the renewal or duplication of a license issued under this section not to exceed sixty dollars ($60). In addition to the renewal fee, a penalty fee of sixty dollars ($60) shall be imposed by the state department for processing an application for license renewal received after the expiration of the previous license. The state department may waive the penalty fee for a showing of good cause.

(d) An individual who applies for a license issued under subsection (c) or who holds a license issued under subsection (e) shall provide the individual's Social Security number to the state department.

(e) The state department shall collect and release the applicant's or licensee's Social Security number as provided in state or federal law.

(f) Notwithstanding IC 4-1-10-3, the state department may allow access to the Social Security number of each person who is licensed under this section or has applied for a license under this section:

1. A testing service that provides the examination for licensure as a radiologic technologist to the state department; or
2. An individual state regulatory board of radiologic technology or an organization composed of state regulatory boards of radiologic technology for the purpose of coordinating licensure and disciplinary activities among the individual states.

(g) Every owner of a radiation machine, including an industrial radiation machine, shall have the machine inspected in accordance with procedures and standards established by the state department. The state department shall adopt rules under IC 4-22-2 establishing the procedures and standards applicable to inspections of radiation machines.

SECTION 6. IC 16-42-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. As used in this chapter, "practitioner" means any of the following:

1. A licensed physician.
2. A veterinarian licensed to practice veterinary medicine in Indiana.
3. A dentist licensed to practice dentistry in Indiana.
4. A pharmacist licensed to practice pharmacy in Indiana.
5. An optometrist who is:
   (A) licensed to practice optometry in Indiana; and
   (B) certified under IC 25-26-15.
6. An advanced practice nurse who meets the requirements of IC 25-23-1-19.5.

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

1. A licensed physician.
2. A dentist licensed to practice dentistry in Indiana.
3. A pharmacist licensed to practice pharmacy in Indiana.
4. A veterinarian licensed to practice veterinary medicine in Indiana.
5. An optometrist who is:
   (A) licensed to practice optometry in Indiana; and
   (B) certified under IC 25-26-15.

SECTION 8. IC 16-42-22-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4.5. As used in this chapter, "practitioner" means any of the following:

1. A licensed physician.
2. A dentist licensed to practice dentistry in Indiana.
3. A pharmacist licensed to practice pharmacy in Indiana.
4. An optometrist who is:
   (A) licensed to practice optometry in Indiana; and
   (B) certified under IC 25-26-15.
5. An advanced practice nurse licensed and granted the authority to prescribe legend drugs under IC 25-23.

SECTION 9. IC 20-28-1-11, AS ADDED BY P.L.1-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. "School psychology" means the following:

1. Administering, scoring, and interpreting educational, cognitive, career, vocational, behavioral, and affective tests and procedures that address a student's:
   (A) education;
   (B) developmental status;
   (C) attention skills; and
   (D) social, emotional, and behavioral functioning;
   as they relate to the student's learning or training in the academic or vocational environment.
2. Providing consultation, collaboration, and intervention services (not including psychotherapy) and providing referral to community resources to:
   (A) students;
   (B) parents of students;
   (C) teachers;
   (D) school administrators; and
   (E) school staff;
   concerning learning and performance in the educational process.
3. Participating in or conducting research relating to a student's learning and performance in the educational process:
   (A) regarding the educational, developmental, career, vocational, or attention functioning of the student; or
   (B) screening social, affective, and behavioral functioning of the student.
4. Providing inservice or continuing education services relating to learning and performance in the educational process to schools, parents, or others.
5. Supervising school psychology services.

SECTION 10. IC 25-1-4-0.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 0.2. As used in this chapter, "approved organization" refers to the following:

1. United States Department of Education.
2. Council on Post-Secondary Education.
3. Joint Commission on Accreditation of Hospitals.
5. Federal, state, and local government agencies.
6. A college or other teaching institution accredited by the United States Department of Education or the Council on Post-Secondary Education.
7. A national organization of practitioners whose members practicing in Indiana are subject to regulation by a board or agency regulating a profession or occupation under this title or IC 15.
8. A national, state, district, or local organization that operates as an affiliated entity under the approval of an organization listed in subdivisions (1) through (7).
9. An internship or a residency program conducted in a hospital that has been approved by an organization listed in subdivisions (1) through (7).
10. Any other organization or individual approved by the board.

SECTION 11. IC 25-1-4-0.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 0.3. As used in section 3 of this chapter, "board" means any of the following:

1. Indiana board of veterinary medical examiners IC 440.110.
(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana athletic trainers board (IC 25-5.1-2-1).

(4) Indiana auctioneer commission (IC 25-6.1-2-1).

(5) State board of barber examiners (IC 25-7-5-1).

(6) State boxing commission (IC 25-9-1).

(7) Board of chiropractic examiners (IC 25-10-1).

(8) State board of cosmetology examiners (IC 25-5-3-1).

(9) State board of dentistry (IC 25-14-1).

(10) Indiana dietitians certification board (IC 25-14.5-2-1).

(11) State board of registration for professional engineers (IC 25-31-1-3).

(12) Board of environmental health specialists (IC 25-32).

(13) State board of funeral and cemetery service (IC 25-15-9).

(14) Indiana state board of health facility administrators (IC 25-19-1).

(15) Committee on hearing aid dealers examiners (IC 25-20-1-1.5).

(16) Home inspectors licensing board (IC 25-20.2-3-1).

(17) Indiana hypnotist committee (IC 25-20.5-1-7).

(18) State board of registration for land surveyors (IC 25-21.5-2-1).

(19) Manufactured home installer licensing board (IC 25-23.7).

(20) Medical licensing board of Indiana (IC 25-22.5-2).

(21) Indiana state board of nursing (IC 25-23-1).

(22) Occupational therapy committee (IC 25-23.5).

(23) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23-6).

(24) Indiana optometry board (IC 25-24).

(25) Indiana orchestra board (IC 25-25).

(26) Indiana physical therapy committee (IC 25-27-1).

(27) Indiana plumbering commission (IC 25-28.5-1-3).

(28) Board of podiatric medicine (IC 25-29-2-1).

(29) Board of environmental health specialists (IC 25-32).

(30) Private detectives licensing board (IC 25-30-1-5-1).

(31) State psychology board (IC 25-33).

(32) Board of real estate appraiser licensure and certification board (IC 25-34.1-8).

(33) Respiratory care committee (IC 25-34.5).

(34) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).

(35) Speech-language pathology and audiology board (IC 25-35.6-2).

(36) Indiana board of veterinary medical examiners (IC 15-5-1.1).

SECTION 12. IC 25-1-4-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) Notwithstanding any other law, if the board determines that a practitioner has not complied with this chapter at the time that the practitioner applies for license renewal or after an audit conducted under section 3 of this chapter, the board shall do the following:

(1) Send the practitioner notice of noncompliance by certified mail.

(2) As a condition of license renewal, require the practitioner to comply with subsection (b).

(3) Issue a conditional license to the practitioner that is effective until the practitioner complies with subsection (b).

(b) Upon receipt of a notice of noncompliance under subsection (a), a practitioner shall do either of the following:

(1) If the practitioner believes that the practitioner has complied with this chapter, within twenty-one (21) days of receipt of the notice, send written notice to the board requesting a review so that the practitioner may submit proof of compliance.

(2) If the practitioner does not disagree with the board's determination of noncompliance, do the following:

(A) Except as provided in subsection (d), pay to the board a civil penalty not to exceed one thousand dollars ($1,000) within twenty-one (21) days of receipt of the notice.

(B) Acquire, within six (6) months after receiving the notice, the number of credit hours needed to achieve full compliance.

(C) Comply with all other provisions of this chapter.

(d) If a practitioner fails to comply with subsection (b), the board shall immediately suspend the license of the practitioner and send notice of the suspension to the practitioner by certified mail.

(e) The board shall:

(1) Reinstatement of a practitioner suspended under subsection (c); or

(2) Renew the practitioner's license in place of the conditional license issued under subsection (a)(3); if the practitioner supplies proof of compliance with this chapter under subsection (b)(1).

SECTION 15. IC 25-1-4-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) Notwithstanding any other law, if at the time a practitioner applies for license renewal or after an audit conducted under section 3 of this chapter, the board determines that the practitioner has failed to comply with this chapter and the practitioner has previously received a notice of noncompliance under section 5(a) of this chapter during the preceding license period, the board shall do the following:

(1) Provide the practitioner notice of noncompliance by certified mail.

(2) Deny the practitioner's application for license renewal.

(b) The board shall reinstate a license not renewed under subsection (a) upon occurrence of the following:

(1) Payment by a practitioner to the board of a civil penalty determined by the board, but not to exceed one thousand dollars ($1,000).

(2) Acquisition by the practitioner of the number of credit hours required to be obtained by the practitioner during the relevant license period.

(3) The practitioner otherwise complies with this chapter.
SECTION 16. IC 25-1-4-7 ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. Credit hours acquired by a practitioner under section 5(b)(2) or 6(b)(2) of this chapter may not apply to the practitioner's credit hour requirement for the license period in which the credit hours are acquired.

SECTION 17. IC 25-1-4-8 ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. The board may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 18. IC 25-1-5-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) An individual who applies for a license issued by a board under this chapter or who holds a license issued by a board under this chapter shall provide the individual's Social Security number to the agency.

(b) The agency and the boards shall collect and release the applicant's or licensee's Social Security number as provided in state or federal law.

(c) Notwithstanding IC 4-1-10-3, the agency and the boards may allow access to the Social Security number of each person who is licensed under this chapter or has applied for a license under this chapter to:

(1) a testing service that provides the examination for licensure to the agency or the boards; or

(2) an individual state regulatory board or an organization composed of state regulatory boards for the applicant's or licensees' profession for the purpose of coordinating licensure and disciplinary activities among the individual states.

SECTION 19. IC 25-1-6-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) An individual who applies for a license issued by a board under this chapter or who holds a license issued by a board under this chapter shall provide the individual's Social Security number to the licensing agency.

(b) The licensing agency and the boards shall collect and release the applicant's or licensee's Social Security number as otherwise provided in state or federal law.

(c) Notwithstanding IC 4-1-10-3, the licensing agency and the boards may allow access to the Social Security number of each person who is licensed under this chapter or has applied for a license under this chapter to:

(1) a testing service that provides the examination for licensure to the licensing agency or the boards; or

(2) an individual state regulatory board or an organization composed of state regulatory boards for the applicant's or licensees' profession for the purpose of coordinating licensure and disciplinary activities among the individual states.

SECTION 20. IC 25-1-8-6, AS AMENDED BY P.L.206-2005, SECTION 13, IS ADDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) As used in this section, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana athletic trainers board (IC 25-5.1-2-1).

(4) Indiana auctioneer commission (IC 25-6.1-2-1).

(5) State board of barber examiners (IC 25-7-5-1).

(6) State board of chiropractic examiners (IC 25-9-1).

(7) Board of chiropractic examiners (IC 25-10-1).

(8) State board of cosmetology examiners (IC 25-8-3-1).

(9) State board of cosmetology examiners (IC 25-14-1).

(10) Indiana dietitians certification board (IC 25-14.5-2-1).

(11) State board of registration for professional engineers (IC 25-31-1-3).

(12) Board of environmental health specialists (IC 25-32-1).

(13) State board of funeral and cemetery service (IC 25-15-9).

(14) Indiana state board of health facility administrators (IC 25-19-1).

(15) Committee on hearing aid dealer examiners (IC 25-20-1-1.5).

(16) Home inspectors licensing board (IC 25-20.2-3-1).

(17) Indiana hypnotist committee (IC 25-20.5-1-7).

(18) State board of registration for land surveyors (IC 25-21.5-2-1).

(19) Manufactured home installer licensing board (IC 25-23.7).

(20) Medical licensing board of Indiana (IC 25-22.5-2).

(21) Indiana state board of nursing (IC 25-23-1).

(22) Occupational therapy committee (IC 25-23.5).

(23) Indiana optometry board (IC 25-24).

(24) Indiana board of pharmacy (IC 25-26).

(25) Indiana physical therapy commission (IC 25-27).

(26) Physician assistant committee (IC 25-27.5).

(27) Indiana plumbing commission (IC 25-28.5-1-3).

(28) Board of podiatric medicine (IC 25-29-2-1).

(29) Private detectives licensing board (IC 25-30-1-5.1).

(30) State psychology board (IC 25-33).

(31) Indiana real estate commission (IC 25-34.1-2).

(32) Real estate appraiser licensure and certification board (IC 25-34.1-8).

(33) Respiratory care committee (IC 25-34.5).

(34) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).

(35) Speech-language pathology and audiology board (IC 25-35.6-2).

(36) Indiana board of veterinary examiners (IC 15-5-1.1).

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

(c) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsing license, certificate, or registration, the holder of a license, certificate, or registration that was issued by the board that is three (3) years or less delinquent must be reinstated upon meeting the following requirements:

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

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

(3) Payment of a reinstatement fee established by the Indiana professional licensing agency.

(4) If a law requires the holder to complete continuing education as a condition of renewal, the holder shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board for the current renewal period.

(5) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsing license, certificate, or registration, unless a statute specifically does not allow a license, certificate, or registration to be reinstated if it has lapsed for more than three (3) years, the holder of a license, certificate, or registration that was issued by the board that is more than three (3) years delinquent must be reinstated upon meeting the following requirements:

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

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

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

(4) If a law requires the holder to complete continuing education as a condition of renewal, the holder shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board for the current renewal period.

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

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

SECTION 21. IC 25-4-1-14, AS AMENDED BY P.L.194-2005, SECTION 14, IS ADDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) Every registered architect who continues in active practice shall, biennially, on or before the date established by the licensing agency under IC 25-1-6-4, renew the
registered architect's certificate of registration and pay the required renewal fee. A registered architect whose certificate of registration has expired may have the certificate restored only upon payment of the required fee under IC 25-1-8-6.

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

(1) making application to the board for renewal of the registration; and
(2) paying a fee required under IC 25-1-8-7. IC 25-1-8-6.

(c) Any registered architect desires to retire from the practice of architecture in Indiana, the architect may submit to the board the architect's verified statement of intention to withdraw from practice. The statement shall be entered upon the records of the board. During the period of the architect's retirement, the architect is not liable for any renewal or restoration fees. If any retired architect desires to return to the practice of architecture in Indiana within a period of five (5) years from the date that the architect files a statement under this subsection, the retired architect must:

(1) file with the board a verified statement indicating the architect's desire to return to the practice of architecture; and
(2) pay a renewal fee equal to the fee set by the board to renew an unexpired registration under this chapter.

SECTION 22. IC 25-4-1-16, AS AMENDED BY P.L.194-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) The fee to be paid by an applicant for an examination to determine the applicant's fitness to receive a certificate of registration as a registered architect shall be established by the board under IC 25-1-8-2.

(b) The fee to be paid by an applicant for a certificate of registration as a registered architect shall be established by the board under IC 25-1-8-2.

(c) The fee to be paid for the restoration of an expired certificate of registration as a registered architect shall be established under IC 25-1-8-6. The restoration fee shall be in addition to all unpaid renewal fees.

(d) The fee to be paid upon renewal of a certificate of registration shall be established by the board under IC 25-1-8-2.

(e) The fee to be paid by an applicant for a certificate of registration who is an architect registered or licensed under the laws of another state or territory of the United States, or of a foreign country or province, shall be established by the board under IC 25-1-8-2.

SECTION 23. IC 25-4-1-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 31. (a) The board may adopt rules under IC 4-22-2 to do the following:

(1) Require continuing education and training for architects.
(2) Set minimum requirements for continuing education and training for architects.
(3) Set minimum requirements for continuing education instructors approved by the board.

(b) The rules adopted under this section must require an architect to comply with the following: renewal requirements:

(1) The architect shall provide the board with a sworn statement signed by the architect that the architect has fulfilled the continuing education requirements required by the board.
(2) The architect shall retain copies of certificates of completion for continuing education courses for three (3) years after the end of the licensing period for which the continuing education applied. The architect shall provide the board with copies of the certificates of completion upon the board's request for a compliance audit: requirements under IC 25-1-4.

(c) Every two (2) years the board shall randomly audit for compliance more than one percent (1%) but less than ten percent (10%) of the landscape architects required to take continuing education courses.

(b) The rules adopted under this section must require a landscape architect to comply with the following: renewal requirements:

(1) The landscape architect shall provide the board with a sworn statement signed by the landscape architect that the landscape architect has fulfilled the continuing education requirements required by the board.
(2) The landscape architect shall retain copies of certificates of completion for continuing education courses for three (3) years after the end of the licensing period for which the continuing education applied. The landscape architect shall provide the board with copies of the certificates of completion upon the board's request for a compliance audit: requirements under IC 25-1-4.

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

(7) The provisions of this article and the commission's rules.
(8) Any other subject matter approved by the commission.

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

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

(1) Apply in a manner required by the commission, including certification by the applicant that the applicant has complied with the requirements of IC 25-6.1-9-8, unless the commission has granted the applicant a waiver under IC 25-6.1-9-9.
(2) Pay the license fee prescribed by section 5 of this chapter.

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

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

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

(i) Auctioneer licenses shall be issued for a term of four (4) years. A license expires at midnight on the date established by the licensing agency under IC 25-1-6-4 and every fourth year thereafter, unless renewed before that date. If the license has expired, it may be reinstated not more than one (1) year after the date it expired upon the payment of the renewal fee plus the reinstatement fee established under IC 25-1-8-7. IC 25-1-8-6 and submission of proof that the applicant has complied with the continuing education requirement. If
the license has expired for a period of more than one (1) year, the person must file an application and take the required examination. However, an applicant for reinstatement of an expired license is not required to complete the initial eighty (80) hour education requirement under this section in order to reinstate the expired license. The holder of an expired license shall cease to display the original wall certificate at the holder's place of business and shall return the wall certificate to the commission upon notification by the commission of the expiration of the holder's license.

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

(1) is licensed to act as an auctioneer in the state of the applicant's domicile;
(2) submits with the application a duly certified letter of certification issued by the licensing board of the applicant's domiciliary state;
(3) is a resident of a state whose licensing requirements are substantially equal to the requirements of Indiana;
(4) is a resident of a state that grants the same privileges to the licensees of Indiana; and
(5) includes with the application an irrevocable consent that actions may be commenced against the applicant. The consent shall stipulate that service of process or pleadings on the commission shall be taken and held in all courts as valid and binding as if service of process had been made upon the applicant personally within this state. If any process or pleading mentioned in this subsection is served upon the commission, it shall be by duplicate copies. One (1) of the duplicate copies shall be filed in the office of the commission and one (1) shall be immediately forwarded by the commission by registered or certified mail to the applicant against whom the process or pleadings are directed.

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

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

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

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

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

SECTION 26. IC 25-7-5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 17. The agency shall do the following:

(1) Furnish the board with suitable quarters to conduct the board's business.
(2) Maintain a record of:
   (A) the proceedings of the board;
   (B) each person licensed under this article, including the person's name and address; and
   (C) the licenses issued under this article, including the:
      (i) number assigned to the license by the agency;
      (ii) date the license was issued; and
      (iii) actions taken by the board concerning the license, including any renewal suspension or revocation and action taken under IC 25-1-11.

(D) rejected applications for a license under this article.

SECTION 27. IC 25-7-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) The board shall conduct a written examination of the applicants for a barber license at least four (4) times each year. The tests examinations described in this section:

(1) shall be conducted at the times and places determined by the board; and
(2) must concern the licensed activity of barbering, as the licensed activity is customarily taught in a barber school. The examination may be administered through computer based testing.

(b) The examinations described in subsection (a) must include:

(1) Each applicant must pass a practical demonstration examination of the acts permitted by the license.
   (2) a written examination concerning the licensed activity; as the licensed activity is customarily taught in a The practical examination must be administered by the applicant's barber school.

SECTION 28. IC 25-7-6-14, AS AMENDED BY P.L.194-2005, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. An expired barber license may be reinstated by payment of the reinstatement and renewal fees required under IC 25-1-8-2 and IC 25-1-8-7 IC 25-1-8-6 within five (5) years of the expiration date of the license. After five (5) years from the date that a barber license expires under this section, the person whose license has expired may reinstate the license only by:

(1) applying for reinstatement of the license;
(2) paying the fees set forth under IC 25-7-11 and IC 25-1-8-7; and IC 25-1-8-6; and
(3) taking the same examination required under IC 25-7-10 for an applicant for a license to practice as a registered barber.

SECTION 29. IC 25-7-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The application described in section 2 of this chapter must state that:

(1) the proposed school will require students to successfully complete at least one thousand five hundred (1,500) hours of course work as a requirement for graduation;
(2) not more than eight (8) hours of course work may be taken by a student during one (1) day;
(3) the course work will provide instruction to students in all theories and practical applications of barbering, including:
   (A) the scientific fundamentals for barbering, hygiene, and bacteriology;
   (B) the histology of hair, skin, muscles, and nerves;
   (C) the structure of the head, face, and neck;
   (D) elementary chemistry relating to sterilization and antiseptics;
   (E) cutting, shaving, arranging, dressing, coloring, bleaching, tinting, and permanent waving of the hair; and
   (F) at least ten (10) hours of study on skin and diseases of the skin under a certified dermatologist;
(4) the school will provide one (1) instructor for each group of twenty (20) or fewer students;
(5) the school will be operated under the personal supervision of a licensed barber instructor;
(6) the applicant has obtained:
   (A) a building permit;
   (B) a certificate of occupancy; or
   (C) any other planning approval required under IC 22-15-3 and IC 36-7-4;

required to operate the school;

(7) the school, if located in the same building as a residence, will:
   (A) be separated from the residence by a substantial floor to ceiling partition; and
   (B) have a separate entrance; and

(8) as a requirement for graduation, the proposed school must:
   (A) administer; and
   (B) require the student to pass;
   a final practical demonstration examination of the acts permitted by the license; and

(9) the applicant has paid the fee set forth in IC 25-7-11-2.

SECTION 30. IC 25-7-7-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3.5. (a) A barber school licensed under this chapter shall require each student for graduation to pass a final examination that tests the student’s practical knowledge of the curriculum studied.

(b) The board shall consider an applicant for the barbering professional examination as fulfilling the practical examination requirement established in IC 25-7-6-5 after successfully completing the final practical demonstration examination.
(c) A passing score of at least seventy-five percent (75%) is required on the final practical demonstration examination.

(d) A barber school licensed under this chapter shall allow each student for graduation at least three (3) attempts to pass the final practical demonstration examination.

(e) The board may monitor the administration of the final practical demonstration examination for any of the following purposes:

(1) As a result of a complaint received.

(2) As part of random observations.

(3) To collect data.

SECTION 31. IC 25-7-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The application described in section 2 of this chapter must state that the applicant:

(1) is either:
   (A) at least eighteen (18) years of age; or
   (B) at least seventeen (17) years of age and is a graduate of an accredited high school;

(2) has graduated from an approved barber school with not less than one thousand five hundred (1,500) hours of training;

(3) has received a satisfactory grade (as described in IC 25-7-6-6) on an examination for barber license applicants prescribed by the board;

(4) has not committed an act that could subject the applicant to discipline under IC 25-1-11; and

(5) has a certificate from a physician licensed in Indiana stating:
   (A) that the applicant is free from any contagious, infectious, or communicable disease that has been epidemiologically demonstrated to be transmitted through casual contact during the practice of barbering; and
   (B) the results of a tuberculin and a Wasserman test; and

(f) (5) has paid the fee set forth in IC 25-7-11 for the issuance of a license under this chapter.

(b) The certificate required by subsection (a)(5) must be dated less than thirty (30) days before the date that the applicant is examined under IC 25-7-7-6.

SECTION 32. IC 25-7-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) If a person does not receive a satisfactory grade on the written examination described in IC 25-7-6-5, the person may repeat the examination within ninety (90) days after the date of the examination without completing any additional study in barbering.

(b) If a person does not receive a satisfactory grade on the repeat examination described in subsection (a), the person will be permitted to repeat the examination only upon proof of completion of two hundred fifty (250) additional hours of training at an approved barber school.

SECTION 33. IC 25-7-11-2, AS AMENDED BY P.L.194-2005, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The board shall adopt rules under IC 4-22-2 to establish fees for the application, issuance, and renewal of barber school licenses under IC 25-1-8-2.

(b) In addition to the fee charged under subsection (a), the board shall charge a fee for reinstating a barber school license under IC 25-1-8-6.

(c) A barber school license may not be reinstated if at least one (1) year has passed since the license expired. However, the barber school may obtain a new license by:

(1) making application;

(2) meeting the requirements for licensure; and

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

SECTION 34. IC 25-7-11-5, AS AMENDED BY P.L.194-2005, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) The board shall establish fees under IC 25-1-8-2 for providing an examination to an applicant for a barber license.

(b) The board shall establish fees under IC 25-1-8-2 for issuing or renewing a barber license.

(c) The board shall charge a fee established under IC 25-1-8-6 for reinstating a barber license.

SECTION 35. IC 25-7-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) "Cosmetology" means performing any of the following acts on the head, face, neck, shoulders, torso, arms, hands, legs, or feet of a person:

(1) Cutting, trimming, styling, arranging, dressing, curling, waving, permanent waving, cleansing, bleaching, tinting, coloring, or similarly treating hair.

(2) Applying oils, creams, antiseptics, clays, lotions, or other preparations to massage, cleanse, stimulate, manipulate, exercise, or beautify.

(3) Arching eyebrows.

(4) Using depilatories.

(5) Manicuring and pedicuring.

(b) "Cosmetology" does not include performing any of the acts described in subsection (a):

(1) in treating illness or disease;

(2) as a student in a cosmetology school that complies with the notice requirements set forth in IC 25-8-5-6; or

(3) in performing shampooing operations; or

(f) (4) without compensation.

SECTION 36. IC 25-8-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5.5. "Cosmetology professional" refers to the following:

(1) A master cosmetologist licensed under IC 25-8-8.

(2) (1) A cosmetologist licensed under IC 25-8-9. (2) An electrologist licensed under IC 25-8-10.

(3) (3) A manicurist licensed under IC 25-8-11.

(4) A shampoo operator licensed under IC 25-8-12.

(5) (4) An esthetician licensed under IC 25-8-12.5.

(6) (5) An instructor licensed under IC 25-8-6.

SECTION 37. IC 25-8-3-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 28. (a) A member of the board or any inspector or investigator may inspect:

(1) a cosmetology salon;

(2) an electrology salon;

(3) an esthetic salon;

(4) a manicuring salon; or

(5) a cosmetology school; during its regular business hours.

(b) A member of the board, an inspector, or an investigator must inspect the salon or school at least once after the applicant applies for a renewal under IC 25-8-4-18 and before the license is renewed.

SECTION 38. IC 25-8-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) Each applicant must pass a final practical demonstration examination of the acts permitted by the license. The applicant's cosmetology school shall administer the final practical demonstration examination.

(b) The board shall conduct a written examination of the applicants for a cosmetologist license at least once each month. The board shall conduct a written examination of the applicants for all other licenses issued under this article at least four (4) times each year. The written examination described in this section:

(1) shall be conducted at the times and places determined by the board; and

(2) may be administered through computer based testing.

SECTION 39. IC 25-8-4-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 19. The board shall renew a license if the license holder

(1) pays the fee set forth in IC 25-8-13 to renew the license before the license is to expire; and

(2) fulfills the continuing education requirements under IC 25-8-15.

SECTION 40. IC 25-8-4-21, AS AMENDED BY P.L.194-2005, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 21. Except as provided in IC 25-8-9-11, the board may, upon application, reinstate a license under this chapter that has expired if the person holding the license:

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

(2) pays the license reinstatement fee established under IC 25-1-8-7; IC 25-1-8-6; and

(3) complies with all requirements imposed by this article on an applicant for an initial license to perform the acts authorized by the license being reinstated, other than receiving a satisfactory grade (as defined in section 9 of this chapter) on an examination
prescribed by the board.

(4) fulfills the continuing education requirements under IC 25-8-11.5.

SECTION 41. IC 25-8-4-23, AS AMENDED BY P.L.194-2005, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 23. The board may reinstate a license issued under this article held by a person described in section 22(a) of this chapter if the applicant:

(1) receives a satisfactory grade (as defined in section 9 of this chapter) on an examination prescribed by the board;
(2) pays the examination fee set forth in IC 25-8-13;
(3) pays the reinstatement fee established under IC 25-1-8-7; 
IC 25-1-8-6; and
(4) complies with all requirements imposed by this article on an applicant for an initial license to perform the acts authorized by the license being reinstated.

SECTION 42. IC 25-8-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The application described in section 2 of this chapter must state that:

(1) as a requirement for graduation, the proposed school will require its students to successfully complete at least the one thousand five hundred (1,500) hours of course work required to be eligible to sit for the licensing examination;
(2) no more than eight (8) hours of course work may be taken by a student during one (1) day;
(3) the course work will instruct the students in all theories and practical application of the students' specific course of study;
(4) the school will provide one (1) instructor for each twenty (20) students or any fraction of that number;
(5) the school will be operated under the personal supervision of a licensed cosmetologist instructor;
(6) the person has obtained any building permit, certificate of occupancy, or other planning approval required under IC 22-15-3 and IC 36-7-4 to operate the school;
(7) the school, if located in the same building as a residence, will:
(A) be separated from the residence by a substantial floor to ceiling partition; and
(B) have a separate entry.

(8) as a requirement for graduation, the proposed school must:
(A) administer; and
(B) require the student to pass;

(a) a practical demonstration examination of the acts permitted by the license; and
(b) The applicant has paid the fee set forth in IC 25-8-13-3.

SECTION 43. IC 25-8-5-4.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 42. (a) A cosmetology school licensed under this chapter shall require each student for graduation to pass a final examination that tests the student's practical knowledge of the curriculum studied.
(b) The board shall consider an applicant for the cosmetology professional examination as fulfilling the practical examination requirement established by IC 25-8-4-8(1) after successfully completing the final practical demonstration examination.
(c) A passing score of at least seventy-five percent (75%) is required on the final practical demonstration examination.
(d) The cosmetology school licensed under this chapter shall allow each student for graduation at least three (3) attempts to pass the final practical demonstration examination.
(e) The board may monitor the administration of the final practical demonstration examination for any of the following purposes:

(1) As a result of a complaint received.
(2) As part of random observations.
(3) To collect data.

SECTION 44. IC 25-8-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. The board may issue a temporary work permit to practice cosmetology, electrology, esthetics, manicuring, shampooing; or the instruction of cosmetology, esthetics, or electrology.

SECTION 45. IC 25-8-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. A person must file a verified application for a temporary:

(1) cosmetologist work permit;
(2) electrologist work permit;
(3) esthetician work permit;
(4) manicurist work permit;

(5) shampoo operator work permit;

(6) (5) cosmetology instructor work permit;
(7) (6) esthetics instructor work permit;

(B) electrologist instructor work permit;

with the board on a form prescribed by the board to obtain that work permit.

SECTION 46. IC 25-8-9-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) The temporary cosmetologist work permit application described in section 8 of this chapter must state that the applicant:

(1) will practice cosmetology under the supervision of a cosmetologist; and
(2) has filed an application under:
(A) section 2 of this chapter, but has not taken the examination described by section 3(4) of this chapter; or
(B) IC 25-8-4-2 and is awaiting a board determination.
(b) The temporary electrologist work permit application described in section 8 of this chapter must state that the applicant:

(1) will practice electrology under the supervision of an electrologist; and
(2) has filed an application under:
(A) IC 25-8-10-2, but has not taken the examination described in IC 25-8-10-3(3); or
(B) IC 25-8-4-2 and is awaiting a board determination.
(c) The temporary esthetician work permit application described in section 8 of this chapter must state that the applicant:

(1) will practice esthetics under the supervision of an esthetician; and
(2) has filed an application under:
(A) IC 25-8-12.3-3, but has not taken the examination described in IC 25-8-12.3-4(a)(4); IC 25-8-12.5-4(4); or
(B) IC 25-8-4-2 and is awaiting a board determination.
(d) The temporary manicurist work permit application described in section 8 of this chapter must state that the applicant:

(1) will practice manicuring under the supervision of a cosmetologist or manicurist; and
(2) has filed an application under:
(A) IC 25-8-11-3, but has not taken the examination described in IC 25-8-11-4(4); or
(B) IC 25-8-4-2 and is awaiting a board determination.
(e) The temporary cosmetology instructor work permit application described in section 8 of this chapter must state that the applicant:

(1) will practice the instruction of cosmetology under the supervision of a cosmetology instructor; and
(2) has filed an application under:
(A) IC 25-8-6-2, but has not taken the examination described in IC 25-8-6-3(6); or
(B) IC 25-8-4-2 and is awaiting a board determination.
(f) The temporary esthetics instructor work permit application described in section 8 of this chapter must state that the applicant:

(1) will practice the instruction of esthetics under the supervision of a cosmetology or an esthetics instructor; and
(2) has filed an application under:
(A) IC 25-8-6-1.2, but has not taken the examination described in IC 25-8-6-1.3(6); or
(B) IC 25-8-4-5 and is awaiting a board determination described in IC 25-8-4-2.
IC 25-1-8-2 for issuing or renewing a manicurist license.

(d) The board shall charge a fee established by the board under IC 25-1-8-2 for issuing a license to a person who holds a manicurist license from another jurisdiction that meets the requirements under IC 25-8-4-2.

SECTION 53. IC 25-8-13-11, AS AMENDED BY P.L.194-2005, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) The board shall charge a fee established by the board under IC 25-1-8-2 for providing an examination to an applicant for an esthetician license.

(b) The board shall charge a fee established by the board under IC 25-1-8-2 for issuing or renewing an esthetician license.

(c) The board shall charge a fee established under IC 25-1-8-7 IC 25-1-8-6 for reinstating an esthetician license.

(d) The board shall charge a fee established by the board under IC 25-1-8-2 for issuing a license to a person who holds an esthetician license from another jurisdiction that meets the requirements under IC 25-8-4-2.

SECTION 54. IC 25-8-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. An individual with an inactive license:

(1) may not perform an act that requires a cosmetology professional license listed under IC 25-8-2-5.5; and

(2) is not required to fulfill the continuing education requirements under IC 25-8-15 and

(3) (2) is not required to pay any fees that a licensee is required to pay until the inactive cosmetology professional applies for reinstatement of the individual's license.

SECTION 55. IC 25-8-16-3, AS AMENDED BY P.L.194-2005, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. If an inactive cosmetology professional intends to apply for reinstatement of the professional's license, the cosmetology professional shall notify the board of that intent. The board may reinstate the cosmetology professional's license upon notification and receipt of:

(1) an application; and

(2) evidence of completion during the preceding four (4) years of at least sixteen (16) hours of continuing education in a continuing education course approved by the board under IC 25-8-15.

(2) the fee established by the board under IC 25-1-8-2 for restoration of an inactive license.

SECTION 56. IC 25-13-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) Subject to IC 25-1-1-3, every two (2) years The board shall randomly audit for compliance more than one percent (1%) but less than ten percent (10%) of the dental hygienists required to take hygienist shall comply with the requirements under IC 25-1-4 concerning continuing education. Courses:

(b) When requested by the board, a dental hygienist shall provide the board with a copy of each verification of attendance retained by the dental hygienist for the previous three (3) years.

SECTION 57. IC 25-14-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) Subject to IC 25-1-1-3, every two (2) years The board shall randomly audit for compliance at least one percent (1%) but not more than ten percent (10%) of the dentists required to take and the dentist shall comply with the requirements under IC 25-1-4 concerning continuing education. Courses:

(b) When requested by the board, a dentist shall provide the board with a copy of each verification of attendance retained by the dentist for the previous three (3) years.
The board shall then classify the physician's license as inactive. The board may not reinstate an embalmer license or a funeral director license or to the reinstatement of a surrendered license.

(2) an individual whose funeral director intern license has expired only if the individual reappears for a funeral director intern license, takes another examination, if required by the board, pays a fee established under IC 25-15-4-2; or

(3) an individual whose funeral director license has expired after the time set in section 4 of this chapter has run only if the individual reappears for a funeral director license, takes another examination, pays a fee established under IC 25-15-4-3(b).

The board may not reinstate an embalmer license or a funeral director license for a person qualified only under IC 25-15-4-3(d) after the time set under section 4 of this chapter has expired.

The renewal fee of the inactive license is one-half (1/2) of the registration fee.

If a physician holding an inactive license intends to maintain an office or practice or charge a fee for his or her medical services, he or she shall notify the board in writing that:

(1) he physician will not maintain an office or practice; and

(2) he or she does render a service that constitutes the practice of medicine, he physician will not charge a fee for that service.

The board shall then classify the physician's license as inactive. The renewal fee of the inactive license is one-half (1/2) of the registration fee.

If a student is not an active or inactive licensee, the board may require the student to appear before the board.

(1) notification; and

(2) a written report to the board by the program director of a residency pilot program that

the board shall classify the student's license as inactive. The renewal fee of the inactive license is one-half (1/2) of the registration fee.

If a student is classified as inactive, the board may impose any conditions it considers appropriate to the surrender of the inactive license.

(1) the student has allowed the inactive license to expire;

(2) the student has not renewed the inactive license;

(3) the student has not maintained an office or practice; and

(4) the student has not otherwise met the requirements to maintain an active license.

The board shall classify the student's license as inactive. The renewal fee of the inactive license is one-half (1/2) of the registration fee.

If a student is classified as inactive, the board may impose any conditions it considers appropriate to the surrender of the inactive license.

(1) notification; and

(2) receipt of the regular registration fee for a physician's license, less the amount paid for the current inactive license; and

(3) either:

(A) verification of active licensure in another jurisdiction; or

(B) completion of other reasonable requirements imposed by the board, after the physician's work history has been established;

the board shall classify the physician's license as inactive. The renewal fee of the inactive license is one-half (1/2) of the registration fee.

If a student is classified as inactive, the board may impose any conditions it considers appropriate to the surrender of the inactive license.

(1) notification; and

(2) receipt of the regular registration fee for a physician's license, less the amount paid for the current inactive license; and

(3) either:

(A) verification of active licensure in another jurisdiction; or

(B) completion of other reasonable requirements imposed by the board, after the physician's work history has been established;

the board shall classify the physician's license as inactive. The renewal fee of the inactive license is one-half (1/2) of the registration fee.

If a student is classified as inactive, the board may impose any conditions it considers appropriate to the surrender of the inactive license.
The information must include data based on the six (6) required agency's competencies used to evaluate all residents.

Sec. 16. There may not be more than two (2) graduates allowed under this pilot program for each approved primary care residency program.

Sec. 17. This chapter expires December 31, 2013.

SECTION 62. IC 25-23-19.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 19.8. (a) Before December 31 of an even-numbered year, the Indiana professional licensing agency or the agency's designee shall randomly audit at least one percent (1%) but not more than ten percent (10%) of the practice agreements of advanced practice nurses with authority to prescribe legend drugs under section 19.5 of this chapter to determine whether the practice agreement meets the requirements of this chapter or rules adopted by the board.

(b) The Indiana professional licensing agency shall establish an audit procedure, which may include the following:

(1) Requiring the advanced practice nurse to provide the agency with a copy of verification of attendance at or completion of a continuing education course or program the advanced practice nurse attended during the previous two (2) years.

(2) Requiring the advanced practice nurse and the licensed practitioner who have entered into a practice agreement to submit information on a form prescribed by the agency that must include a sworn statement signed by the advanced practice nurse and the licensed practitioner that the parties are operating within the terms of the practice agreement and the requirements under this chapter or rules adopted by the board.

(3) Reviewing patient health records and other patient information at the practice location or by requiring the submission of accurate copies to determine if the parties are operating within the terms of the practice agreement and the requirements under this chapter or rules adopted by the board.

(4) After a reasonable determination that the advanced practice nurse and the licensed practitioner who have entered into a practice agreement are not operating within the terms of the practice agreement, requiring the parties to appear before the agency or the agency's designee to provide evidence of compliance with the practice agreement.

(c) Not more than sixty (60) days after the completion of the audit required in subsection (a), the Indiana professional licensing agency shall provide the board with the following:

(1) A summary of the information obtained in the audit.

(2) A statement regarding whether an advanced practice nurse and a licensed practitioner who have entered into a practice agreement that is audited under subsection (a) are operating within the terms of the practice agreement.

The agency shall also provide a copy of the information described in this subsection to the board that regulates the licensed practitioner.

(d) The Indiana professional licensing agency may cause to be served upon the advanced practice nurse an order to show cause to the board as to why the board should not impose disciplinary sanctions under IC 25-1-9-9 on the advanced practice nurse for the practice nurse's failure to comply with:

(1) an audit conducted under this section; or

(2) the requirements of a practice agreement under this chapter.

(e) Except for a violation concerning continuing education requirements under IC 25-1-4, the board shall hold a hearing in accordance with IC 4-21.5 and state the date, time, and location of the hearing in the order served under subsection (d).

(f) The board that regulates the licensed practitioner may cause to be served upon the licensed practitioner an order to show cause to the board as to why the board should not impose disciplinary sanctions under IC 25-1-9-9 on the licensed practitioner for the licensed practitioner's failure to comply with:

(1) an audit conducted under this section; or

(2) the requirements of a practice agreement under this chapter.

(g) The board that regulates the licensed practitioner shall hold a hearing in accordance with IC 4-21.5 and state the date, time, and location of the hearing in the order served under subsection (f).

(h) An order to show cause issued under this section must comply with the notice requirements of IC 4-21.5.

(i) The licensed practitioner may divulge health records and other patient information to the Indiana professional licensing agency or the agency's designee. The licensed practitioner is immune from civil liability for any action based upon release of the patient information under this section.

SECTION 63. IC 25-23.7-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. Notwithstanding IC 25-1-2, the holder of a license issued under IC 25-23.7-5 expires must renew the license and pay the required renewal fee every four (4) years after it is issued or the license expires.

(1) an audit conducted under this section; or

(2) the requirements of a practice agreement under this chapter.

(3) An order to show cause issued under this section must comply with the notice requirements of IC 4-21.5.

(4) The licensed practitioner may divulge health records and other patient information to the Indiana professional licensing agency or the agency's designee. The licensed practitioner is immune from civil liability for any action based upon release of the patient information under this section.

SECTION 64. IC 25-24-1.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3.2. (a) Notwithstanding section 3 of this chapter, the board may issue or renew a limited license to practice optometry at the Indiana University School of Optometry if the applicant:

(1) holds an active license in another jurisdiction; and

(2) meets the continuing education requirements under section 14.1 of this chapter.

(b) A limited license issued under this section is valid for two (2)

(3) holds an active license in another jurisdiction; and

(4) meets the continuing education requirements under section 14.1 of this chapter.

(c) A limited license issued under this section does not allow the holder of the license to be granted or have renewed a certificate to administer, dispense, or prescribe legend drugs unless the holder of the license meets the requirements of IC 25-26-15-15, IC 25-26-15-16, and IC 25-26-15-18. IC 25-24-3-12, IC 25-24-3-13, and IC 25-23-3-15.

SECTION 65. IC 25-24-3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 3. Optometric Legend Drugs
Sec. 1. As used in this chapter, "associated structures of the eye" means the:

(1) eyelids;

(2) eyebrows;

(3) conjunctiva;

(4) lachrymal apparatus; and

(5) orbital tissues.

Sec. 2. As used in this chapter, "administer" means the direct application of a legend drug by an optometrist to a patient.

Sec. 3. As used in this chapter, "board" means the Indiana optometry board established by IC 25-24-1-1.
Sec. 4. As used in this chapter, "diagnostic legend drug" means a pharmacological agent approved by the board that is used in the examination of the human eye to detect abnormalities.

Sec. 5. As used in this chapter, "dispense" means to deliver a legend drug to an ultimate user by or pursuant to a lawful order of an optometrist. The term includes the:

(1) prescribing;
(2) administering;
(3) packaging;
(4) labeling; or
(5) compounding;

necessary to prepare the drug for delivery.

Sec. 6. As used in this chapter, "legend drug" has the meaning set forth in IC 16-18-2-199. The term does not include controlled substances (as defined in IC 35-48-1-9).

Sec. 7. As used in this chapter, "optometrist" means an individual licensed as an optometrist under IC 25-24-1.

Sec. 8. As used in this chapter, "prescription" means a written order or an order transmitted by other means of communication that is immediately reduced to writing by the pharmacist or, for electronically transmitted orders, recorded in an electronic format from an optometrist to or for an ultimate user for a drug or device, containing:

(1) the name and address of the patient;
(2) the date of issue;
(3) the name and strength or size (if applicable) of the drug or device;
(4) the amount to be dispensed (unless indicated by directions and duration of therapy);
(5) adequate directions for the proper use of the drug or device by the patient;
(6) the name and certification number of the prescribing optometrist; and
(7) if the prescription:
   (A) is in written form, the signature of the optometrist; or
   (B) is in electronic form, the electronic signature of the optometrist.

Sec. 9. As used in this chapter, "therapeutic legend drug" means a pharmacological agent that is used in the treatment of a diagnosed condition of the:

(1) human eye; or
(2) associated structures of the human eye.

Sec. 10. The board shall do the following:

(1) Adopt rules under IC 4-22-2 to do the following:
   (A) Establish a formulary of legend drugs that may be prescribed, dispensed, or administered by an optometrist.
   (B) Set fees described in IC 25-1-8.
   (C) Carry out this chapter.

(2) Establish education and training requirements in ocular pharmacology required for certification to do the following:
   (A) Administer therapeutic legend drugs.
   (B) Dispense legend drugs.
   (C) Prescribe legend drugs.

(3) Establish continuing education requirements for renewal of the certificate issued under this chapter.

Sec. 11. (a) The formulary established under section 10 of this chapter shall include legend drugs that:

(1) may be independently prescribed by an optometrist; or
(2) must be independently prescribed by an optometrist.

(b) If a legend drug is designated in the formulary as one (1) that must be independently prescribed, the formulary must designate:

(1) those legend drugs for which the optometrist must notify only the patient's physician that the optometrist is prescribing the legend drug; and
(2) those legend drugs for which the optometrist must consult with the patient's physician before prescribing the legend drug.

(c) If the patient has no physician, the optometrist must document such in the patient's file.

(d) If the legend drug is designated in the formulary as a legend drug that must be independently prescribed, the optometrist shall indicate on the prescription that:
(1) the patient's physician has been contacted; or
(2) the patient has indicated to the optometrist that the patient has no physician.

(e) If the legend drug is designated in the formulary as a legend drug that may be independently prescribed, the optometrist may prescribe the legend drug without notifying the patient's physician.

Sec. 12. The board shall issue a certificate to a licensed optometrist who:

(1) applies; and
(2) successfully fulfills all the requirements of this chapter.

Sec. 13. An optometrist who applies for a certificate to administer, dispense, and prescribe legend drugs must meet the following requirements:

(1) Apply in the form and manner prescribed by the board.
(2) Provide proof of education in ocular pharmacology from a school or college of optometry or medicine approved by the optometry board.
(3) Pass the Treatment and Management of Ocular Disease (TMOD) examination that is sponsored by the International Association of Boards of Examiners in Optometry (IAB) and administered by the National Board of Examiners in Optometry.
(4) Pay the fee established by the board.

Sec. 14. An applicant must hold a license to practice optometry in order to hold a certificate.

Sec. 15. The board shall renew a certificate issued under this chapter:

(1) concurrently with the renewal of the optometrist's license to practice optometry;
(2) upon payment of the renewal fee established by the board; and
(3) upon completion of continuing education requirements established under section 10 of this chapter.

Sec. 16. (a) Optometrists may administer topical diagnostic legend drugs limited to:

(1) miotics;
(2) mydriatics;
(3) anesthetics; and
(4) cycloplegics;

without holding a certificate issued under this chapter. These pharmaceutical agents may be applied in diagnostic procedures only as a part of an examination of the eye.

(b) The board may authorize an optometrist holding a certificate issued under this chapter to:

(1) administer for therapeutic use;
(2) dispense; or
(3) prescribe;

legend drugs that are included in the formulary established by the board under section 10 of this chapter, in the treatment of any condition of the eye or the associated structures of the eye.

Sec. 17. (a) An optometrist may not:

(1) administer, dispense, or prescribe therapeutic legend drugs; or
(2) dispense or prescribe diagnostic legend drugs;

unless the optometrist is certified under this chapter.

(b) An optometrist may administer diagnostic legend drugs without obtaining a certificate under this chapter.

(c) An individual who recklessly, knowingly, or intentionally violates this chapter commits a Class A misdemeanor.

SECTION 66. IC 25-26-13-16.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16.5. Pharmacists licensed by Indiana may fill prescriptions of optometrists who are:

(1) licensed by Indiana; and
(2) certified under IC 25-26-15-15; IC 25-24-3; for a drug that is included in the formulary adopted under IC 25-26-15-15; IC 25-24-3-10.

SECTION 67. IC 25-30-1-1.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1.2. (a) Except as provided in subsection (b), this chapter does not apply to a law enforcement officer (as defined in IC 3-56-3-16) who has graduated from the law enforcement training academy and is employed full time as a law enforcement officer.

(b) This chapter applies to a law enforcement officer to the extent that the law enforcement officer is engaged in the business of private
detective as an individual with the assistance of a licensed or unlicensed person.

SECTION 68. IC 25-30-1-16, AS AMENDED BY P.L.194-2005, SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) Unless a license is renewed, a license and the identification cards of the licensee's employees issued under this chapter expire on a date specified by the licensing agency under IC 25-1-6-4 and expire biennially after the initial expiration date. An applicant for renewal shall pay the renewal fee established by the board under IC 25-1-8-2 on or before the renewal date specified by the licensing agency.

(b) If the holder of a license does not renew the license by the date specified by the licensing agency, the license expires and becomes invalid without any action taken by the board.

(c) A licensee desiring a renewal license must:
(1) file an application for renewal at least thirty (30) days before the expiration of the license's scope on a form as prescribed by the board; and
(2) meet the license renewal requirements determined by the board.

(d) A license may be reinstated within thirty (30) days after the expiration of the license if the applicant does the following:
(1) Files an application for renewal with the board;
(2) pays the renewal requirements determined by the board;
(3) Pays a fee established under IC 25-1-8-6.

(e) Employee identification cards issued under this chapter expire at the same time as the license referred to in subsection (a).

SECTION 69. IC 25-33-1-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4.5. (a) A person who:
(1) is licensed to practice psychology by any board or licensing agency of another state or jurisdiction; and
(2) meets the requirements established by the board; may be issued a temporary psychology permit limited by terms and conditions considered appropriate by the board. A limited scope temporary psychology permit issued under this subsection is valid for a nonrenewable period of not more than thirty (30) days. A psychologist may practice under a limited scope psychology permit not more than thirty (30) days every two (2) years.

(b) The board may adopt rules under section 3 of this chapter establishing requirements for limited scope temporary psychology permits.

(c) An individual who holds a limited scope temporary psychology permit under this section may be disciplined by the board under IC 25-1-9.

SECTION 70. IC 25-33-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) Subject to IC 25-1-4-3; every two (2) years The board shall randomly audit and licensed psychologists to ensure compliance of shall comply with the requirements concerning continuing education requirements: under IC 25-1-4.

(b) When requested by the board, a psychologist shall provide the board with a copy of each verification of attendance retained by the psychologist for the previous three (3) years.

SECTION 71. IC 25-34.1-3-3.1, AS AMENDED BY P.L.194-2005, SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3.1. (a) To obtain a salesperson license, an individual must:
(1) be at least eighteen (18) years of age before applying for a license and must not have a conviction for:
(A) an act that would constitute a ground for disciplinary sanction under IC 25-1-11;
(B) a crime that has a direct bearing on the individual's ability to practice competently; or
(C) a crime that indicates the individual has the propensity to endanger the public;
(2) have successfully completed courses in the principles, practices, and law of real estate, totaling eight (8) semester credit hours, or their equivalent, as a student at an accredited college or university or have successfully completed an approved salesperson course as provided in IC 25-34.1-5-5(a);
(3) apply for a license by submitting the application fee prescribed by the commission and an application containing the name, address, and age of the applicant, the name under which the applicant intends to conduct business, the principal broker's address where the business is to be conducted, proof of compliance with subdivision (2), and any other information the commission requires;
(4) pass a written examination prepared and administered by the commission or its duly appointed agent; and
(5) submit not more than one hundred twenty (120) days (1) year after passing the written examination under subdivision (4) the license fee established by the commission under IC 25-1-8-2; and
(B) a sworn certification of a principal broker that the principal broker intends to associate with the applicant and maintain that association until notice of termination of the association is given to the commission.

(b) Upon the applicant's compliance with the requirements of subsection (a), the commission shall:
(1) issue a Wall certificate in the name of the salesperson to the principal broker who certified the applicant's association with the principal broker; and
(2) issue to the salesperson a pocket identification card which certifies that the salesperson is licensed and indicates the expiration date of the license and the name of the principal broker.

(c) Notice of passing the commission examination serves as a temporary permit to act as a salesperson as soon as the applicant sends, by registered or certified mail with return receipt requested, the license fee and certification as prescribed in subsection (a)(5)(A) and (a)(5)(B): (a)(5). The temporary permit expires the earliest of the following:
(1) The date the license is issued.
(2) The date the applicant's association with the certifying principal broker is terminated.
(3) The date the applicant's association with the certifying principal broker is terminated.
(4) The date the applicant's association with the certifying principal broker is terminated.
(5) The date the applicant's association with the certifying principal broker is terminated.
(6) The date the applicant's association with the certifying principal broker is terminated.

The temporary permit may not be renewed, extended, reissued, or otherwise effective for any association other than with the initial certifying principal broker.

(d) A salesperson shall:
(1) act under the auspices of the principal broker responsible for that salesperson's conduct under this article;
(2) be associated with only one (1) principal broker;
(3) maintain evidence of licensure in the office, branch office, or sales outlet of the principal broker;
(4) advertise only in the name of the principal broker, with the principal broker's name in letters of advertising larger than that of the salesperson's name; and
(5) not maintain any real estate office apart from that office provided by the principal broker.

(e) Upon termination of a salesperson's association with a principal broker, the salesperson's license shall be returned to the commission within five (5) business days. The commission shall reissue the license to any principal broker whose certification, as prescribed in subsection (a)(5), is filed with the commission, and the commission shall issue a new identification card to the salesperson reflecting that change.

(f) Unless a license is renewed, a salesperson license expires on a date specified by the licensing agency under IC 25-1-6-4 and expires biennially after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the board and pay the renewal fee established by the board under IC 25-1-8-2 on or before the renewal date specified by the licensing agency. If the holder of a license does not renew the license by the date specified by the licensing agency, the license expires and becomes invalid without the board taking any action. If a salesperson fails to reissue a license within eighteen (18) months after expiration, a license may not be issued unless that salesperson again complies with the requirements of subsection (a)(3), (a)(4), and (a)(5).

(g) A salesperson license may be issued to an individual who is not yet associated with a principal broker but who otherwise meets the requirements of subsection (a). A license issued under this subsection shall be held by the commission in an unassigned status until the date the individual submits the certification of a principal broker required by subsection (a)(5). If the individual does not submit the application...
for licensure within one hundred twenty (120) days (1) year after passing the commission examination, the commission shall void the application and may not issue a license to that applicant unless the applicant again complies with the requirements of subsection (a)(4) through (a)(5).

(h) If an individual holding a salesperson license is not associated with a principal broker for two (2) successive renewal periods, the commission shall notify the individual in writing that the individual's license will become void if the individual does not associate with a principal broker within thirty (30) days from the date the notification is mailed. A void license may not be renewed.

SECTION 72. IC 25-34.1-3-4.1, AS AMENDED BY P.L.194-2005, SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4.1. (a) To obtain a broker license, an individual must:

(1) be at least eighteen (18) years of age before applying for a license and must not have a conviction for:

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

(B) a crime that has a direct bearing on the individual's ability to practice competently; or

(C) a crime that indicates the individual has the propensity to endanger the public;

(2) have satisfied section 3.1(a)(2) of this chapter and have had continuous active experience for one (1) year immediately preceding the application as a licensed salesperson in Indiana. However, this one (1) year experience requirement may be waived by the commission upon a finding of equivalent experience;

(3) have successfully completed an approved broker course of study as prescribed in IC 25-34.1-5-5(b);

(4) apply for a license by submitting the application fee prescribed by the commission and an application specifying the name, address, and age of the applicant, the name under which the applicant intends to conduct business, the address where the business is to be conducted, proof of compliance with subdivisions (2) and (3), and any other information the commission requires;

(5) pass a written examination prepared and administered by the commission or its duly appointed agent; and

(6) within one hundred twenty (120) days (1) year after passing the commission examination, submit the license fee established by the commission under IC 25-1-8-2. If an individual applicant fails to file a timely license fee, the commission shall void the application and may not issue a license to that applicant unless that applicant again complies with the requirements of subdivisions (4) and (5) and this subdivision.

(b) To obtain a broker license, a partnership must:

(1) have as partners only individuals who are licensed brokers;

(2) have at least one (1) partner who:

(A) is a resident of Indiana; or

(B) is a principal broker under IC 25-34.1-4-3(b);

(3) cause each employee of the partnership who acts as a broker or salesperson to be licensed; and

(4) submit the license fee established by the commission under IC 25-1-8-2 and an application setting forth the name and residence address of each partner and the information prescribed in subsection (a)(4).

(c) To obtain a broker license, a corporation must:

(1) have a licensed broker:

(A) residing in Indiana who is either an officer of the corporation or, if no officer resides in Indiana, the highest ranking corporate employee in Indiana with authority to bind the corporation in real estate transactions; or

(B) who is a principal broker under IC 25-34.1-4-3(b);

(2) cause each employee of the corporation who acts as a broker or salesperson to be licensed; and

(3) submit the license fee established by the commission under IC 25-1-8-2, an application setting forth the name and residence address of each officer and the information prescribed in subsection (a)(4), a copy of the certificate of incorporation, and a certificate of good standing of the corporation issued by the secretary of state.

(d) To obtain a broker license, a limited liability company must:

(1) if a member-managed limited liability company:

(A) have as members only individuals who are licensed brokers; and

(B) have at least one (1) member who is:

(i) a resident of Indiana; or

(ii) a principal broker under IC 25-34.1-4-3(b);

(2) if a manager-managed limited liability company, have a licensed broker:

(A) residing in Indiana who is either a manager of the company or, if no manager resides in Indiana, the highest ranking company officer or employee in Indiana with authority to bind the company in real estate transactions; or

(B) who is a principal broker under IC 25-34.1-4-3(b);

(3) cause each employee of the limited liability company who acts as a broker or salesperson to be licensed; and

(4) submit the license fee established by the commission under IC 25-1-8-2 and an application setting forth the information prescribed in subsection (a)(4), together with:

(A) if a member-managed company, the name and residence address of each member; or

(B) if a manager-managed company, the name and residence address of each manager, or of each officer if the company has officers.

(e) Licenses granted to partnerships, corporations, and limited liability companies are issued, expire, are renewed, and are effective on the same terms as licenses granted to individual brokers, except as provided in subsection (h), and except that expiration or revocation of the license of:

(1) any partner in a partnership or all individuals in a corporation satisfying subsection (c)(1); or

(2) a member in a member-managed limited liability company or all individuals in a manager-managed limited liability company satisfying subsection (d)(2);

terminates the license of that partnership, corporation, or limited liability company.

(f) Upon the applicant's compliance with the requirements of subsection (a), (b), or (c), the commission shall issue the applicant a broker license and an identification card which certifies the issuance of the license and indicates the expiration date of the license. The license shall be displayed at the broker's place of business.

(g) Notice of passing the commission examination serves as a temporary permit for an individual applicant to act as a broker as soon as the applicant sends, by registered or certified mail with return receipt requested, a timely license fee as prescribed in subsection (a)(6). The temporary permit expires the earlier of one hundred twenty (120) days (1) year after the date of the notice of passing the examination or the date a license is issued.

(h) Unless the license is renewed, a broker license expires, for individuals, on a date specified by the licensing agency under IC 25-1-6-4 and expires biennially after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the board and pay the renewal fee established by the commission under IC 25-1-8-2 on or before the renewal date specified by the licensing agency. If the holder of a license does not renew the license by the date specified by the licensing agency, the license expires and becomes invalid without the board taking any action. If a broker fails to reinstate a license within eighteen (18) months after expiration, a license may not be issued unless the broker again complies with the requirements of subsection (a)(4), (a)(5), and (a)(6).

(i) A partnership, corporation, or limited liability company may not be a broker-salesperson except as authorized in IC 23-1.5. An individual broker who associates as a broker-salesperson with a principal broker shall immediately notify the commission of the name and business address of the principal broker and of any changes of principal broker that may occur. The commission shall then change the address of the broker-salesperson on its records to that of the principal broker.

SECTION 73. IC 25-34.1-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) A salesperson licensed under section 3.1 of this chapter or a broker licensed under section 4.1 of this chapter may apply for and receive an inactive
license from the commission.
(b) An individual may not be granted an inactive license without the approval of the commission if a disciplinary or suspension hearing is pending against the individual.
(c) An individual with an inactive license:
(1) may not perform an act that requires a salesperson or broker's license;
(2) is not required to fulfill the continuing education requirements under IC 25-34.1-9;
(3) is required to pay any fees that a licensee is required to pay; and
(4) must fulfill the requirement requirements under IC 25-34.1-9-11 for the current licensing period before applying for reactivation of the individual's license.

SECTION 74. IC 25-34.1-9-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 20. (a) Subject to IC 25-1-1-4, the commission may deny renewal of the license of a licensee that does not fulfill the requirements of this chapter.
(b) Suspension proceedings shall be conducted in accordance with IC 4-21.5 and the commission has all powers granted under IC 4-21.5.

SECTION 75. IC 25-35.6-1-7, AS AMENDED BY HEA 1040-2006, SECTION 480, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005 (RETOACTIVE)]: Sec. 7. (a) The professional standards board may issue the following:
(1) An initial license as a speech-language pathologist only to an individual who is licensed as a speech-language pathologist under this article.
(2) A renewal license as a speech-language pathologist to an individual who was licensed by the professional standards board before July 1, 2005, and who is not licensed as a speech-language pathologist under this article.
(b) The professional standards board shall issue a license as a speech-language pathologist to an individual who:
(1) is licensed as a speech-language pathologist under this article; and
(2) requests licensure.
(++) (c) A speech-language pathologist licensed by the professional standards board shall register with the Indiana professional licensing agency all speech-language pathology support personnel that the speech-language pathologist supervises.
(++) (d) The professional standards board may impose different or additional supervision requirements upon speech-language pathology support personnel than the supervision requirements that are imposed under this article.
(++) (e) The professional standards board may not impose continuing education requirements upon an individual who receives a license under this section that are different from or in addition to the continuing education requirements imposed under this article.
(++) (f) An individual who:
(1) if:
(A) the individual is a speech-language pathologist, receives a license under this section or received a license as a speech-language pathologist issued by the professional standards board before July 1, 2005; or
(B) the individual is an audiologist, works in an educational setting;
(2) has been the holder of a certificate of clinical competence in speech-language pathology or audiology or its equivalent issued by a nationally recognized association for speech-language pathology and audiology for at least three (3) consecutive years; and
(3) has professional experience as a licensed speech-language pathologist or audiologist in a school setting that is equivalent to the experience required for a teacher seeking national certification by the National Board of Professional Teaching Standards;
is considered to have the equivalent of and is entitled to the same benefits that accrue to a holder of a national certification issued by the National Board for Professional Teaching Standards.

SECTION 76. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 25-1-8-7; IC 25-7-10-13; IC 25-8-2-2.5; IC 25-8-2-16; IC 25-8-2-18; IC 25-8-4-8.5; IC 25-8-8; IC 25-8-12; IC 25-8-13-6; IC 25-8-13-10; IC 25-8-15; IC 25-13-2-8; IC 25-13-2-11; IC 25-13-2-12; IC 25-13-2-13; IC 25-14-3-10; IC 25-14-3-13; IC 25-14-3-14; IC 25-14-3-15; IC 25-20-1-4; IC 25-26-15; IC 25-33-2-3.

SECTION 77. [EFFECTIVE JULY 1, 2006] (a) The rules adopted by the optometric legend drug prescription advisory committee under IC 25-26-15-13, as repealed by this act, before July 1, 2006, and in effect on June 30, 2006, shall be treated after June 30, 2006, as the rules of the Indiana optometry board under IC 25-24-3, as added by this act.
(b) Any reference in a law, a rule, a license, a registration, a certification, or an agreement to the optometric legend drug prescription advisory committee shall be treated after June 30, 2006, as a reference to the Indiana optometry board.

SECTION 78. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 4-1-8-1, this SECTION applies instead of IC 4-1-8-1.
(b) No individual may be compelled by any state agency, board, commission, department, bureau, or other entity of state government (referred to as "state agency" in this chapter) to provide the individual's Social Security number to the state agency against the individual's will, absent federal requirements to the contrary. However, this subsection does not apply to the following:
(1) Department of state revenue.
(2) Department of workforce development.
(3) The programs administered by:
(A) the division of family and children;
(B) the division of mental health and addiction;
(C) the division of disability, aging, and rehabilitative services; and
(D) the office of Medicaid policy and planning; of the office of the secretary of family and social services.
(4) Auditor of state.
(5) State personnel department.
(6) Secretary of state, with respect to the registration of broker-dealers, agents, and investment advisors.
(7) The legislative ethics commission, with respect to the registration of lobbyists.
(8) Indiana department of administration, with respect to bidders on contracts.
(9) Indiana department of transportation, with respect to bidders on contracts.
(10) Indiana professional licensing agency.
(11) Department of insurance, with respect to licensing of insurance producers.
(12) A pension fund administered by the board of trustees of the public employees' retirement fund.
(13) The Indiana state teachers' retirement fund.
(14) The state police benefit system.
(15) The alcohol and tobacco commission.
(16) The state department of health, for purposes of licensing radiologic technologists under IC 16-41-35-29(c).
(c) The bureau of motor vehicles, notwithstanding the prohibition set forth in subsection (b), may require the following:
(1) That an individual include the individual's Social Security number in an application for an official certificate of title for any vehicle required to be titled under IC 9-17.
(2) That an individual include the individual's Social Security number on an application for registration.
(3) That a corporation, limited liability company, firm, partnership, or other business entity include its federal tax identification number on an application for registration.
(d) The Indiana department of administration, the Indiana department of transportation, and the Indiana professional licensing agency may require an employer to provide its federal employer identification number.
(e) The department of correction may require a committed offender to provide the offender's Social Security number for

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purposes of matching data with the Social Security Administration to determine benefit eligibility.

(f) The Indiana gaming commission, notwithstanding the prohibition set forth in subsection (b), may require the following:

1. That an individual include the individual’s Social Security number in any application for a riverboat owner’s license, supplier’s license, or occupational license.
2. That a sole proprietorship, a partnership, an association, a fiduciary, a corporation, a limited liability company, or any other business entity include its federal tax identification number on an application for a riverboat owner’s license or supplier’s license.
3. Notwithstanding the prohibition set forth in subsection (b), the department of education established by IC 20-19-3-1 may require an individual who applies to the department for a license or an endorsement to provide the individual’s Social Security number. The Social Security number may be used by the department only for conducting a background investigation, if the department is authorized by statute to conduct a background investigation of an individual for issuance of the license or endorsement.

(b) This SECTION expires July 1, 2006.

SECTION 79. An emergency is declared for this act.
(Reference is to ESB 333 as reprinted March 1, 2006.)

DILLON T. HARRIS
BRODEN OXLEY
Senate Conferrees

House Conferrees

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

CONFERENCE COMMITTEE REPORT

ESB 12-1; filed March 13, 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 12 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 5-2-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter:

"Criminal justice" includes activities concerning:
1. The prevention or reduction of criminal offenses;
2. The enforcement of criminal law;
3. The apprehension, prosecution, and defense of persons accused of crimes;
4. The disposition of convicted persons, including corrections, rehabilitation, probation, and parole; and
5. The participation of members of the community in corrections.

"Entitlement jurisdictions" include the state and certain local governmental units as defined in Section 402(a) of the Omnibus Act.

"Institute" means the Indiana criminal justice institute.

"Juvenile justice" includes activities concerning:
1. The prevention or reduction of juvenile delinquency;
2. The apprehension and adjudication of juvenile offenders;
3. The disposition of juvenile offenders including protective techniques and practices;
4. The prevention of child abuse and neglect; and
5. The discovery, protection, and disposition of children in need of services.

"Juvenile Justice Act" means the Juvenile Justice and Delinquency Prevention Act of 1974 and any amendments made to that act.

"Local governmental entities" include:
1. Trial courts; and
2. Political subdivisions (as defined in IC 36-1-2-13).

"Omnibus Act" means the Omnibus Crime Control and Safe Streets Act of 1968 and any amendments made to that act.

"Trustees" refers to the board of trustees of the institute.

SECTION 2. IC 5-2-6-3, AS AMENDED BY P.L.192-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The institute is established to do the following:

1. Evaluate state and local programs associated with:
   (A) the prevention, detection, and solution of criminal offenses;
   (B) the administration of criminal justice.
   (C) the administration of criminal and juvenile justice.
2. Improve and coordinate all aspects of law enforcement, juvenile justice, and criminal justice in this state.
3. Stimulate criminal and juvenile justice research.
4. Develop new methods for the prevention and reduction of crime.
5. Prepare applications for funds under the Omnibus Act and the Juvenile Justice Act.
6. Administer victim and witness assistance funds.
7. Administer the traffic safety functions assigned to the institute under IC 9-27-2.
8. Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this state.
9. Serve as the criminal justice statistical analysis center for this state.
10. Establish and maintain, in cooperation with the office of the secretary of family and social services, a sex and violent offender directory.
11. Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.
12. Prescribe or approve forms as required under IC 5-2-12.
13. Provide judges, law enforcement officers, prosecuting attorneys, parole officers, and probation officers with information and training concerning the requirements in IC 5-2-12 and the use of the sex and violent offender directory.
14. Develop and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.
15. Identify grants and other funds that can be used by the department of correction to carry out its responsibilities concerning sex offender registration under IC 11-8-8.
16. Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.
17. Identify grants and other funds that can be used by the department of correction to carry out its responsibilities concerning sex offender registration under IC 11-8-8.
18. Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.
19. Identify grants and other funds that can be used by the department of correction to carry out its responsibilities concerning sex offender registration under IC 11-8-8.
20. Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.

(c) The institute may use money from the victim and witness assistance fund when awarding a grant or entering into a contract under this chapter, if the money is used for the support of a program in the office of a prosecuting attorney or in a state or local law enforcement agency designed to:

1. Help evaluate the physical, emotional, and personal needs of a victim resulting from a crime, and counsel or refer the victim to those agencies or persons in the community that can provide the services needed;
2. Provide transportation for victims and witnesses of crime to attend proceedings in the case when necessary; or
3. Provide other services to victims or witnesses of crime when necessary to enable them to participate in criminal proceedings without undue hardship or trauma.

(d) Money in the victim and witness assistance fund at the end of a particular fiscal year does not revert to the general fund.

(e) The institute may use money in the fund to:

1. Pay the costs of administering the fund, including expenditures for personnel and data;
2. Establish and maintain support the Indiana sex and violent offender directory registry under IC 5-2-12; IC 11-8-8;
3. Provide training for persons to assist victims; and
(4) establish and maintain a victim notification system under IC 11-8-7 if the department of correction establishes the system.

SECTION 4. IC 10-13-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) As used in this chapter, "criminal history data" means information collected by criminal justice agencies, the United States Department of Justice for the department's information system, or individuals.

(b) The term consists of the following:

(1) Identifiable descriptions and notations of arrests, indictments, informations, or other formal criminal charges.
(2) Information regarding a sex and violent offender (as defined in IC 5-2-12-4 IC 11-8-8-5) obtained through sex and violent offender registration under IC 5-2-12 IC 11-8-8-8.
(3) Any disposition, including sentencing, and correctional system intake, transfer, and release.

SECTION 5. IC 10-13-3-27, AS AMENDED BY P.L.234-2005 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 27. (a) Except as provided in subsection (b), on request, a law enforcement agency shall release or allow inspection of a limited criminal history or allow inspection of a limited criminal history by noncriminal justice organizations or individuals only if the subject of the request:

(1) has applied for employment with a noncriminal justice organization or individual;
(2) has applied for a license and has provided criminal history data as required by law to be provided in connection with the license;
(3) is a candidate for public office or a public official;
(4) is in the process of being appréhended by a law enforcement agency;
(5) is placed under arrest for the alleged commission of a crime;
(6) has charged that the subject's rights have been abused repeatedly by criminal justice agencies;
(7) is the subject of a judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;
(8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;
(9) is currently residing in a location designated by the department of child services (established by IC 31-33-1.5-2) or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location;
(10) has volunteered services at a public school (as defined in IC 20-18-2-15) or nonpublic school (as defined in IC 20-18-2-12) that involve contact with, care of, or supervision over a student enrolled in the school;
(11) is being investigated for welfare fraud by an investigator of the division of family resources or a county office of family and children;
(12) is being sought by the parent locator service of the child support bureau of the division of family and children;
(13) is suspected to register as a sex and violent offender under IC 5-2-12 IC 11-8-8; or
(14) has been convicted of any of the following:
(A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age;
(B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age;
(C) Child molesting (IC 35-42-4-3);
(D) Child exploitation (IC 35-42-4-4(b));
(E) Possession of child pornography (IC 35-42-4-4(c));
(F) Vicarious sexual gratification (IC 35-42-4-5);
(G) Child solicitation (IC 35-42-4-6);
(H) Child seduction (IC 35-42-4-7);
(I) Sexual misconduct with a minor as a felony (IC 35-42-4-9);
(J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the following noncriminal justice organizations:

(1) Federally chartered or insured banking institutions.
(2) Officials of state and local government for any of the following purposes:
(A) Employment with a state or local governmental entity.
(B) Licensing.

(c) Any person who uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor.

SECTION 6. IC 10-13-3-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 30. (a) Except as provided in subsection (c), on request for release or inspection of a limited criminal history, law enforcement agencies may, if the agency has complied with the reporting requirements in section 24 of this chapter, and the department shall do the following:

(1) Require a form, provided by law enforcement agencies and the department, to be completed. The form shall be maintained for two (2) years and shall be available to the record subject upon request.
(2) Collect a three dollar ($3) fee to defray the cost of processing a request for inspection.
(3) Collect a seven dollar ($7) fee to defray the cost of processing a request for release. However, law enforcement agencies and the department may not charge the fee for requests received from the parent locator service of the child support bureau of the division of family and children.

(b) Law enforcement agencies and the department shall edit information so that the only information released or inspected is:

(1) has been requested; and
(2) is limited criminal history information.

(c) The fee required under subsection (a) shall be waived if the request relates to the Indiana sex and violent offender directory registry under IC 5-2-6 IC 11-8-8 or concerns a person required to register as a sex and violent offender under IC 5-2-12 IC 11-8-8.

SECTION 7. IC 10-13-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. As used in this chapter, "juvenile history data" means information collected by criminal or juvenile justice agencies or individuals about a child who is alleged to have committed a reportable act and consists of the following:

(1) Descriptions and notations of events leading to the taking of the child into custody by a juvenile justice agency for a reportable act allegedly committed by the child.
(2) A petition alleging that the child is a delinquent child.
(3) Dispositional decrees concerning the child that are entered under IC 31-37-19 (or IC 31-6-4-15.9 before its repeal).
(4) The findings of a court determined after a hearing is held under IC 31-37-20-2 or IC 31-37-20-3 (or IC 31-6-4-19(h) or IC 31-6-4-19(i) before their repeal) concerning the child.

(5) Information:
(A) regarding a child who has been adjudicated a delinquent child for committing an act that would be an offense described in IC 5-2-12 IC 11-8-8-5 if committed by an adult; and
(B) that is obtained through sex and violent offender registration under IC 5-2-12 IC 11-8-8.

SECTION 8. IC 10-13-6-10, AS AMENDED BY P.L.142-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) This section applies to the following:

(1) A person convicted of a felony under IC 35-42 (offenses against the person) or IC 35-43-2-1 (burglary):
(A) after June 30, 1996, whether or not the person is sentenced to a term of imprisonment; or
(B) before July 1, 1996, if the person is held in jail or prison on or after July 1, 1996.
(2) A person convicted of a criminal law in effect before October 1, 1977, that penalized an act substantially similar to a
felony described in IC 35-42 or IC 35-43-2-1 or that would have been an included offense of a felony described in IC 35-42 or IC 35-43-2-1 if the felony had been in effect:

(A) after June 30, 1998, whether or not the person is sentenced to a term of imprisonment; or

(B) before July 1, 1998, if the person is held in jail or prison on or after July 1, 1998.

(3) A person convicted of a felony, conspiracy to commit a felony, or attempt to commit a felony:

(A) after June 30, 2005, whether or not the person is sentenced to a term of imprisonment; or

(B) before July 1, 2005, if the person is held in jail or prison on or after July 1, 2005.

(b) A person described in subsection (a) shall provide a DNA sample to the:

(1) department of correction or the designee of the department of correction if the offender is committed to the department of correction; or

(2) county sheriff or the designee of the county sheriff if the offender is held in a county jail or other county penal facility, placed in a community corrections program (as defined in IC 35-38-2.6-2), or placed on probation; or

(3) agency that supervises the person, or the agency's designee, if the person is on conditional release in accordance with IC 35-38-1-27.

A person is not required to submit a blood sample if doing so would present a substantial and an unreasonable risk to the person's health.

c) The detention, arrest, or conviction of a person based on a data base match or data base information is not invalidated if a court determines that the DNA sample was obtained or placed in the Indiana DNA data base by mistake.

SECTION 9. IC 10-13-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) The superintendent may issue specific guidelines relating to procedures for DNA sample collection and shipment within Indiana for DNA identification testing.

(b) The superintendent shall issue specific guidelines related to procedures for DNA sample collection and shipment by the:

(1) county sheriff or designee of the county sheriff under section 10(b)(2) of this chapter; or

(2) supervising agency or designee of the supervising agency under section 10(b)(3) of this chapter.

The superintendent shall provide each county sheriff and supervising agency with the guidelines issued under this subsection. A county sheriff and supervising agency shall collect and ship DNA samples in compliance with the guidelines issued under this subsection.

c) The superintendent may delay the implementation of the collection of DNA samples under section 10(b)(2) or 10(b)(3) of this chapter in one (1) or more counties until the earlier of the following:

(1) A date set by the superintendent.

(2) The date funding becomes available by grant through the criminal justice institute.

If the superintendent delays implementation of section 10(b)(2) or 10(b)(3) of this chapter or terminates a delay under section 10(b)(2) or 10(b)(3) of this chapter in any county, the superintendent shall notify the county sheriff in writing of the superintendent's action.

SECTION 10. IC 11-8-2-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. The department shall do the following:

(1) Maintain the Indiana sex offender registry established under IC 36-2-13-5.5.

(2) Prescribe and approve a format for sex offender registration as required by IC 11-8-8.

(3) Provide:

(A) judges;

(B) law enforcement officials;

(C) prosecuting attorneys;

(D) parole officers;

(E) probation officers; and

(F) community corrections officials;

with information and training concerning the requirements of IC 11-8-8 and the use of the Indiana sex offender registry.

(4) Upon request of a neighborhood association:

(A) transmit to the neighborhood association information concerning sex offenders who reside near the location of the neighborhood association; or

(B) provide instructional materials concerning the use of the Indiana sex offender registry to the neighborhood association.

SECTION 11. IC 11-8-2-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) The Indiana sex offender registry established under IC 36-2-13-5.5 and maintained by the department under section 12 of this chapter must include the names of each offender who is or has been required to register under IC 11-8-8.

(b) The department shall do the following:

(1) Ensure that the Indiana sex offender registry is updated at least once per day with information provided by a local law enforcement authority (as defined in IC 11-8-8-2).

(2) Publish the Indiana sex offender registry on the Internet through the computer gateway administered by the office of technology established by IC 4-13-1-2-1, and ensure that the Indiana sex offender registry displays the following or similar words:

"Based on information submitted to law enforcement, a person whose name appears in this registry has been convicted of a sex offense or has been adjudicated a delinquent child for an act that would be a sex offense if committed by an adult."

SECTION 12. IC 11-8-5-2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The department may, under IC 4-22-2, classify as confidential the following personal information maintained on a person who has been committed to the department or who has received correctional services from the department:

(1) Medical, psychiatric, or psychological data or opinion which might adversely affect that person's emotional well-being.

(2) Information relating to a pending investigation of alleged criminal activity or other misconduct.

(3) Information which, if disclosed, might result in physical harm to that person or other persons.

(4) Sources of information obtained only upon a promise of confidentiality.

(5) Information required by law or promulgated rule to be maintained as confidential.

(b) The department may deny the person about whom the information pertains and other persons access to information classified as confidential under subsection (a). However, confidential information shall be disclosed:

(1) upon the order of a court;

(2) to employees of the department who need the information in the performance of their lawful duties;

(3) to other agencies in accord with IC 4-1-6-8.5;

(4) to the governor or the governor's designee;

(5) for research purposes in accord with IC 4-1-6-8.6(b);

(6) to the department of correction ombudsman bureau in accord with IC 11-11-1.5; or

(7) if the commissioner determines there exists a compelling public interest as defined in IC 4-1-6-1, for disclosure which overrides the interest to be served by nondisclosure.

(a) The department may disclose information classified as confidential under subsection (a) to (1) a physician, psychiatrist, or psychologist designated in writing by the person about whom the information pertains.

(d) The department may disclose confidential information to the following:

(1) A provider of sex offender management, treatment, or programming.

(2) A provider of mental health services.

(3) Any other service provider working with the department to assist in the successful return of an offender to the
community following the offender’s release from incarceration.

(e) This subsection does not prohibit the department from sharing information available on the Indiana sex offender registry with another person.

SECTION 13. IC 11-8-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 8. Sex Offender Registration

Sec. 1. As used in this chapter, "correctional facility" has the meaning set forth in IC 4-13.5-1-1.

Sec. 2. As used in this chapter, "local law enforcement authority" means the:

(1) chief of police of a consolidated city; or
(2) sheriff of a county that does not contain a consolidated city.

Sec. 3. As used in this chapter, "principal residence" means the residence where a sex offender spends the most time. The term includes a residence owned or leased by another person if the sex offender:

(1) does not own or lease a residence; or
(2) spends more time at the residence owned or leased by the other person than at the residence owned or leased by the sex offender.

Sec. 4. As used in this chapter, "register" means to provide a local law enforcement authority with the information required under section 8 of this chapter.

Sec. 5. (a) As used in this chapter, "sex offender" means a person convicted of any of the following offenses:

(1) Rape (IC 35-42-4-1).
(2) Criminal deviate conduct (IC 35-42-4-2).
(3) Child molesting (IC 35-42-4-3).
(4) Child exploitation (IC 35-42-4-4(b)).
(5) Vicarious sexual gratification (IC 35-42-4-5).
(6) Child solicitation (IC 35-42-4-6).
(7) Child seduction (IC 35-42-4-7).
(8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9).
(9) Incest (IC 35-46-1-3).
(10) Sexual battery (IC 35-42-4-8).
(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.
(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.
(13) Possession of child pornography (IC 35-42-4-4(c)), if the person has a prior unrelated conviction for possession of child pornography (IC 35-42-4-4(c)).
(14) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (13).
(15) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (14).

(b) The term includes:

(1) a person who is required to register as a sex offender in any jurisdiction; and
(2) a child who has committed a delinquent act and who:
(A) is at least fourteen (14) years of age;
(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and
(C) is found by a court to be a youthful offender.

Sec. 6. As used in this chapter, "sexually violent predator" has the meaning set forth in IC 35-38-1-7.5.

Sec. 7. (a) Subject to section 9 of this chapter, the following persons must register under this chapter:

(1) A sex offender who resides in Indiana. A sex offender resides in Indiana if either of the following applies:
(A) The sex offender spends or intends to spend at least
seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.
(B) The sex offender owns real property in Indiana and returns to Indiana at any time.

(2) A sex offender who works or carries on a vocation or intends to work or carry on a vocation full-time or part-time for a period:
(A) exceeding fourteen (14) consecutive days; or
(B) for a total period exceeding thirty (30) days during any calendar year in Indiana, whether the sex offender is financially compensated, volunteer, or is acting for the purpose of government or educational benefit.

(3) A sex offender who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education in Indiana.

(b) Except as provided in subsection (e), a sex offender who resides in Indiana shall register with the local law enforcement authority in the county where the sex offender resides. If a sex offender resides in more than one (1) county, the sex offender shall register with the local law enforcement authority in each county in which the sex offender resides. If the sex offender is also required to register under subsection (a)(2) or (a)(3), the sex offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (c) or (d).

(c) A sex offender described in subsection (a)(2) shall register with the local law enforcement authority in the county where the sex offender is or intends to be employed or carry on a vocation. If a sex offender is or intends to be employed or carry on a vocation in more than one (1) county, the sex offender shall register with the local law enforcement authority in each county. If the sex offender is also required to register under subsection (a)(1)(A), (a)(2), or (a)(3), the sex offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (d).

(d) A sex offender described in subsection (a)(3) shall register with the local law enforcement authority in the county where the sex offender is enrolled or intends to be enrolled as a student. If the sex offender is also required to register under subsection (a)(1) or (a)(2), the sex offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (c).

(e) A sex offender described in subsection (a)(1)(B) shall register with the local law enforcement authority in the county in which the real property is located. If the sex offender is also required to register under subsection (a)(1)(A), (a)(2), or (a)(3), the sex offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b), (c), or (d).

(f) A sex offender committed to the department shall register with the department before the sex offender is released from incarceration. The department shall forward the sex offender’s registration information to the local law enforcement authority of every county in which the sex offender is required to register.

(g) This subsection does not apply to a sex offender who is a sexually violent predator. A sex offender not committed to the department shall register not more than seven (7) days after the sex offender:

(1) is released from a penal facility (as defined in IC 35-41-1-21);
(2) is released from a secure private facility (as defined in IC 31-9-2-115);
(3) is released from a juvenile detention facility;
(4) is transferred to a community transition program;
(5) is placed on parole;
(6) is placed on probation;
(7) is placed on home detention; or
(8) arrives at the place where the sex offender is required to register under subsection (b), (c), or (d); whichever occurs first. A sex offender required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than
seventy-two (72) hours after the sex offender's arrival in that county or acquisition of real estate in that county.

(h) This subsection applies to a sex offender who is a sexually violent predator. A sex offender who is a sexually violent predator shall register not more than seventy-two (72) hours after the sex offender:

(1) is released from a penal facility (as defined in IC 31-9-2-115);
(2) is released from a secure private facility (as defined in IC 31-9-2-115);
(3) is released from a juvenile detention facility;
(4) is transferred to a community transition program;
(5) is placed on parole;
(6) is placed on probation;
(7) is placed on home detention; or
(8) arrives at the place where the sexually violent predator is required to register under subsection (b), (c), or (d);

whichever occurs first. A sex offender who is a sexually violent predator required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the offender’s arrival in that county or acquisition of real estate in that county.

(i) The local law enforcement authority with whom a sex offender registers under this section shall make and publish a photograph of the sex offender on the Indiana sex offender registry web site established under IC 36-2-13-5.5. The local law enforcement authority shall make a photograph of the sex offender that complies with the requirements of IC 36-2-13-5.5 at least once per year. The sheriff of a county containing a consolidated city shall provide the police chief of the consolidated city with all photographic and computer equipment necessary to enable the police chief of the consolidated city to transmit sex offender photographs (and other identifying information required by IC 36-2-13-5.5) to the Indiana sex offender registry web site established under IC 36-2-13-5.5. In addition, the sheriff of a county containing a consolidated city shall provide all funding for the county’s financial obligation for the establishment and maintenance of the Indiana sex offender registry web site established under IC 36-2-13-5.5.

(j) When a sex offender registers, the local law enforcement authority shall:

(1) immediately update the Indiana sex offender registry web site established under IC 36-2-13-5.5; and
(2) notify every law enforcement agency having jurisdiction in the county where the sex offender resides.

The local law enforcement authority shall provide the department and a law enforcement agency described in subdivision (2) with the information provided by the sex offender during registration.

Sec. 8. The registration required under this chapter must include the following information:

(1) The sex offender’s full name, alias, any name by which the sex offender was previously known, date of birth, sex, race, height, weight, hair color, eye color, any scars, marks, or tattoos, Social Security number, driver’s license number or state identification number, principal residence address, and mailing address, if different from the sex offender’s principal residence address;
(2) A description of the offense for which the sex offender was convicted, the date of conviction, the county of the conviction, the cause number of the conviction, and the sentence imposed, if applicable.
(3) If the person is required to register under section 7(a)(2) or 7(a)(3) of this chapter, the name and address of each of the sex offender’s employers in Indiana, the name and address of each campus or location where the sex offender is enrolled in school in Indiana, and the address where the sex offender stays or intends to stay while in Indiana.
(4) A recent photograph of the sex offender.
(5) If the sex offender is a sexually violent predator, that the sex offender is a sexually violent predator.
(6) If the sex offender is required to register for life, that the sex offender is required to register for life.
(7) Any other information required by the department.

Sec. 9. (a) Not more than seven (7) days before an Indiana sex offender who is required to register under this chapter is scheduled to be released from a secure private facility (as defined in IC 31-9-2-115), or released from a juvenile detention facility, an official of the facility shall do the following:

(1) Oral notification of the sex offender’s duty to register under this chapter and require the sex offender to sign a written statement that the sex offender was orally informed or, if the sex offender refuses to sign the statement, certify that the sex offender was orally informed of the duty to register.
(2) Deliver a form advising the sex offender’s duty to register under this chapter and require the sex offender to sign a written statement that the sex offender received the written notice or, if the sex offender refuses to sign the statement, certify that the sex offender was given the written notice of the duty to register.
(3) Obtain the address where the sex offender expects to reside after the sex offender’s release.
(4) Transmit to the local law enforcement authority in the county where the sex offender expects to reside the sex offender’s name, date of release or transfer, new address, and the offense or delinquent act committed by the sex offender.

(b) Not more than seventy-two (72) hours after a sex offender who is required to register under this chapter is released or transferred as described in subsection (a), an official of the facility shall transmit to the state police the following:

(1) The sex offender’s fingerprints, photograph, and identification factors.
(2) The address where the sex offender expects to reside after the sex offender’s release.
(3) The complete criminal history data (as defined in IC 10-13-3-5) or, if the sex offender committed a delinquent act, juvenile history data (as defined in IC 10-13-4-4) of the sex offender.
(4) Information regarding the sex offender’s past treatment for mental disorders.
(5) Information as to whether the sex offender has been determined to be a sexually violent predator.

(c) This subsection applies if a sex offender is placed on probation or in a community corrections program without being confined in a penal facility. The probation office serving the court in which the sex offender is sentenced shall perform the duties required under subsections (a) and (b).

Sec. 10. Notwithstanding any other law, upon receiving a sex offender’s fingerprints from a correctional facility, the state police shall immediately send the fingerprints to the Federal Bureau of Investigation.

Sec. 11. (a) If a sex offender who is required to register under this chapter changes:

(1) principal residence address; or
(2) if section 7(a)(2) or 7(a)(3) of this chapter applies, the place where the sex offender stays in Indiana;

the sex offender shall register not more than seventy-two (72) hours after the address change with the local law enforcement authority with whom the sex offender last registered.

(b) If a sex offender moves to a new county in Indiana, the local law enforcement authority referred to in subsection (a) shall inform the local law enforcement authority in the new county in Indiana of the sex offender’s residence and forward all relevant registration information concerning the sex offender to the local law enforcement authority in the new county.

(c) If a sex offender who is required to register under section 7(a)(2) or 7(a)(3) of this chapter changes the sex offender’s principal place of employment, principal place of education, principal place of residence or, campus or location where the sex offender is enrolled in school, the sex offender shall register not more than seventy-two (72) hours after the change with the local law enforcement authority with whom the sex offender last registered.

(d) If a sex offender moves the sex offender’s principal place of employment, education, or enrollment to a new county in Indiana,
the local law enforcement authority referred to in subsection (c) shall inform the local law enforcement authority in the new county of the sex offender's new principal place of employment, vocation, or enrollment by forwarding relevant registration information to the local law enforcement authority in the new county.

(e) If a sex offender moves the sex offender's residence, place of employment, vocation, or enrollment to a new state, the local law enforcement authority shall inform the state police in the new state of the sex offender's new place of residence, employment, or enrollment.

(f) A local law enforcement authority shall make registration information, including information concerning the duty to register and the penalty for failing to register, available to a sex offender.

(g) A local law enforcement authority who is notified of a change under subsection (a) or (c) shall immediately update the Indiana sex offender registry web site established under IC 36-2-13-5.5.

Sec. 12. (a) As used in this section, "temporary residence" means a residence:

(1) that is established to provide transitional housing for a person without another residence; and

(2) in which a person is not typically permitted to reside for more than thirty (30) days in a sixty (60) day period.

(b) This section applies only to a sex offender who resides in a temporary residence. In addition to the other requirements of this chapter, a sex offender who resides in a temporary residence shall register in person with the local law enforcement authority in which the temporary residence is located:

(1) not more than seventy-two (72) hours after the sex offender moves into the temporary residence; and

(2) during the period in which the sex offender resides in a temporary residence, at least once every seven (7) days following the sex offender's initial registration under subdivision (1).

(c) A sex offender's obligation to register in person once every seven (7) days terminates when the sex offender no longer resides in the temporary residence. However, all other requirements imposed on a sex offender by this chapter continue in force, including the requirement that a sex offender register the sex offender's new address with the local law enforcement authority.

Sec. 13. (a) To verify a sex offender's current residence, the local law enforcement authority shall do the following:

(1) Mail a reply form to each sex offender in the county at the sex offender's listed address at least one (1) time per year, beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the sex offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;

(B) placed in a community transition program;

(C) placed in a community corrections program;

(D) placed on parole; or

(E) placed on probation;

whichever occurs first.

(2) Mail a reply form to each sex offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the sex offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;

(B) placed in a community transition program;

(C) placed in a community corrections program;

(D) placed on parole; or

(E) placed on probation;

whichever occurs first.

(3) Personally visit each sex offender in the county at the sex offender's listed address at least one (1) time per year, beginning seven (7) days after the local law enforcement authority receives a notice under section 7 of this chapter or the date the sex offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;

(B) placed in a community transition program;

(C) placed in a community corrections program;

(D) placed on parole; or

(E) placed on probation;

whichever occurs first.

(4) Personally visit each sex offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 7 of this chapter or the date the sex offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;

(B) placed in a community transition program;

(C) placed in a community corrections program;

(D) placed on parole; or

(E) placed on probation;

whichever occurs first.

(b) If a sex offender fails to return a signed reply form either by mail or in person, not later than fourteen (14) days after mailing, or appears not to reside at the listed address, the local law enforcement authority shall immediately notify the department and the prosecuting attorney.

Sec. 14. At least once per calendar year, a sex offender who is required to register under this chapter shall:

(1) report in person to the local law enforcement authority;

(2) register; and

(3) be photographed by the local law enforcement authority; in each location where the offender is required to register.

Sec. 15. (a) A sex offender who is a resident of Indiana shall obtain and keep in the sex offender's possession:

(1) a valid Indiana driver's license; or

(2) a valid Indiana identification card (as described in IC 9-24-16).

(b) A sex offender required to register in Indiana who is not a resident of Indiana shall obtain and keep in the sex offender's possession:

(1) a valid driver's license issued by the state in which the sex offender resides; or

(2) a valid state issued identification card issued by the state in which the sex offender resides.

(c) A person who knowingly or intentionally violates this section commits failure of a sex offender to possess identification, a Class A misdemeanor. However, the offense is a Class D felony if the person:

(1) is a sexually violent predator; or

(2) has a prior unrelated conviction:

(A) under this section; or

(B) based on the person's failure to comply with any requirement imposed on an offender under this chapter.

(d) It is a defense to a prosecution under this section that:

(1) the person has been unable to obtain a valid driver's license or state issued identification card because less than thirty (30) days have passed since the person's release from incarceration; or

(2) the person possesses a driver's license or state issued identification card that expired not more than thirty (30) days before the date the person violated subsection (a) or (b).

Sec. 16. (a) A sex offender who is required to register under this chapter may not petition for a change of name under IC 34-28-2.

(b) If a sex offender who is required to register under this chapter changes the sex offender's name due to marriage, the sex offender must register with the local law enforcement authority not more than seven (7) days after the name change.

Sec. 17. A sex offender who knowingly or intentionally:

(1) fails to register when required to register under this
chapter;
(2) fails to register in every location where the sex offender is required to register under this chapter;
(3) makes a material misstatement or omission while registering as a sex offender under this chapter; or
(4) fails to register in person and be photographed at least one (1) time per year as required under this chapter;
commit a Class D felony. However, the offense is a Class C felony if the sex offender has a prior unrelated conviction for an offense under this section or based on the person's failure to comply with any requirement imposed on a sex offender under this chapter.

Sec. 18. (a) A sexually violent predator who will be absent from the sexually violent predator's principal residence for more than seventy-two (72) hours shall inform the local law enforcement authority, in person or in writing, of the following:
(1) That the sexually violent predator will be absent from the sexually violent predator's principal residence for more than seventy-two (72) hours.
(2) The location where the sexually violent predator will be located during the absence from the sexually violent predator's principal residence.
(3) The length of time the sexually violent predator will be absent from the sexually violent predator's principal residence.
(b) A sexually violent predator who will spend more than seventy-two (72) hours in a county in which the sexually violent predator is not required to register shall inform the local law enforcement authority in the county in which the sexually violent predator is not required to register, in person or in writing, of the following:
(1) That the sexually violent predator will spend more than seventy-two (72) hours in the county.
(2) The location where the sexually violent predator will be located while spending time in the county.
(3) The length of time the sexually violent predator will remain in the county.

Upon request of the local law enforcement authority of the county in which the sexually violent predator is not required to register, the sexually violent predator shall provide the local law enforcement authority with any additional information that will assist the local law enforcement authority in determining the sexually violent predator's whereabouts during the sexually violent predator's stay in the county.

(c) A sexually violent predator who knowingly or intentionally violates this section commits failure to notify, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this section based on the person's failure to comply with any requirement imposed on a sex offender under this chapter.

Sec. 19. (a) Except as provided in subsections (b) through (e), a sex offender is required to register under this chapter until the expiration of ten (10) years after the date the sex offender:
(1) is released from a penal facility (as defined in IC 35-41-1-21) or a secure juvenile detention facility of a state or another jurisdiction;
(2) is placed in a community transition program;
(3) is placed in a community corrections program;
(4) is placed on parole; or
(5) is placed on probation;
whichever occurs last. The department shall ensure that an offender who is no longer required to register as a sex offender is notified that the obligation to register has expired.

(b) A sex offender who is a sexually violent predator is required to register for life.

(c) A sex offender who is convicted of at least one (1) sex offense that the sex offender committed:
(1) when the person was at least eighteen (18) years of age; and
(2) against a victim who was less than twelve (12) years of age at the time of the crime;
is required to register for life.

(d) A sex offender who is convicted of at least one (1) sex offense in which the sex offender:
(1) proximately caused serious bodily injury or death to the victim;
(2) used force or the threat of force against the victim or a member of the victim's family; or
(3) rendered the victim unconscious or otherwise incapable of giving voluntary consent;
is required to register for life.

(e) A sex offender who is convicted of at least two (2) unrelated sex offenses is required to register for life.

Sec. 20. (a) The governor may enter into a compact with one (1) or more jurisdictions outside Indiana to exchange notifications concerning the release, transfer, or change of address, employment, vocation, or enrollment of a sex offender between Indiana and the other jurisdiction or the other jurisdiction and Indiana.

(b) The compact must provide for the designation of a state agency to coordinate the transfer of information.

(c) If the state agency receives information that a sex offender has relocated to Indiana to reside, engage in employment or a vocation, or enroll in school, the state agency shall inform in writing the local law enforcement authority where the sex offender is required to register in Indiana of:
(1) the sex offender's name, date of relocation, and new address; and
(2) the sex offense or delinquent act committed by the sex offender.

(d) The state agency shall determine, following a hearing:
(1) whether a person convicted of an offense in another jurisdiction is required to register as a sex offender in Indiana;
(2) whether an out of state sex offender is a sexually violent predator; and
(3) the period in which an out of state sex offender who has moved to Indiana will be required to register as a sex offender in Indiana.

SECTION 14. IC 11-13-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) A person sentenced under IC 35-50 shall be released on parole or discharged from the person's term of imprisonment under IC 35-50 without a parole release hearing.

(b) A person sentenced for an offense under laws other than IC 35-50 who is eligible for release on parole, or a person whose parole is revoked and is eligible for reinstatement on parole under rules adopted by the parole board shall, before the date of the person's parole eligibility, be granted a parole hearing to determine whether parole will be granted or denied. The hearing shall be conducted by one (1) or more of the parole board members. If one (1) or more of the members conduct the hearing on behalf of the parole board, the final decision shall be rendered by the full parole board based upon the record of the proceedings and the hearing conductor's findings. Before the hearing, the parole board shall order an investigation to include the collection and consideration of:
(1) reports regarding the person's medical, psychological, educational, vocational, employment, economic, and social condition and history;
(2) official reports of the person's history of criminality;
(3) reports of earlier parole or probation experiences;
(4) reports concerning the person's present commitment that are relevant to the parole release determination;
(5) any relevant information submitted by or on behalf of the person being considered; and
(6) such other relevant information concerning the person as may be reasonably available.

(c) Unless the victim has requested in writing not to be notified, the department shall notify a victim of a felony (or the next of kin of the victim if the felony resulted in the death of the victim) or any witness involved in the prosecution of an offender imprisoned for the commission of a felony when the offender is:
(1) to be discharged from imprisonment;
(2) to be released on parole under IC 35-50-6-1;
(3) to have a parole release hearing under this chapter;
(4) to have a parole violation hearing;
(5) an escaped committed offender; or
The department shall supply the information to a victim (or a next of kin) in an informal manner without regard to rules of evidence. In connection with the subject of the motion in camera before ruling on the motion, release of victim information, witness information, or both that is the filing of a motion by any person requesting or objecting to the have access to the name and address of a victim and a witness. Upon the time of the interview with the victim or witness, of the right of the victim or witness to receive notification from the department under subsection (c). The probation department for the sentencing court shall forward the most recent list of the addresses or telephone numbers, or both, of victims to the department of correction. The probation department shall supply the department with the information required by this section as soon as possible but not later than five (5) days from the receipt of the information from the victim.

A victim (or next of kin) is responsible for supplying the department with any change of address or telephone number of the victim (or next of kin).

The department shall inform the victim and witness described in subsection (c), at the time of the interview with the victim or witness, of the right of the victim or witness to receive notification from the department under subsection (c). The probation department for the sentencing court shall forward the most recent list of the addresses or telephone numbers, or both, of victims to the department of correction. The probation department shall supply the department with the information required by this section as soon as possible but not later than five (5) days from the receipt of the information from the victim.

A victim (or next of kin) is responsible for supplying the department with the correct address and telephone number of the victim (or next of kin).

(f) Notwithstanding IC 11-8-5-2 and IC 4-1-6, an inmate may not have access to the name and address of a victim and a witness. Upon the filing of a motion by any person requesting or objecting to the release of victim information, witness information, or both that is retained by the department, the court shall review the information that is the subject of the motion in camera before ruling on the motion.

(g) The notice required under subsection (c) must specify whether the prisoner is being discharged, is being released on parole, is being released on lifetime parole, having a parole release hearing, or has escaped. The notice must contain the following information:

(1) The name of the prisoner.
(2) The date of the offense.
(3) The date of the conviction.
(4) The felony of which the prisoner was convicted.
(5) The sentence imposed.
(6) The amount of time served.
(7) The date and location of the interview (if applicable).

(h) The parole board shall adopt rules under IC 4-22-2 and make available to offenders the criteria considered in making parole release determinations. The criteria must include the:

(1) nature and circumstances of the crime for which the offender is committed;
(2) offender's prior criminal record;
(3) offender's conduct and attitude during the commitment; and
(4) offender's parole plan.

(i) The hearing prescribed by this section may be conducted in an informal manner without regard to rules of evidence. In connection with the hearing, however:

(1) reasonable, advance written notice, including the date, time, and place of the hearing shall be provided to the person being considered;
(2) the person being considered shall be given access, in accord with IC 11-8-5, to records and reports considered by the parole board in making its parole release decision;
(3) the person being considered may appear, speak in the person's own behalf, and present documentary evidence; (4) irrelevant, immaterial, or unduly repetitious evidence shall be excluded; and

(5) a record of the proceeding, to include the results of the parole board's investigation, notice of the hearing, and evidence adduced at the hearing, shall be made and preserved.

(j) If parole is denied, the parole board shall give the person written notice of the denial and the reasons for the denial. The parole board may not parole a person if it determines that there is substantial reason to believe that the person:

(1) will engage in further specified criminal activity; or
(2) will not conform to appropriate specified conditions of parole.

(k) If parole is denied, the parole board shall conduct another parole release hearing not earlier than five (5) years after the date of the hearing at which parole was denied. However, the board may conduct a hearing earlier than five (5) years after denial of parole if the board:

(1) finds that special circumstances exist for the holding of a hearing; and
(2) gives reasonable notice to the person being considered for parole.

(l) The parole board may parole a person who is outside Indiana on a record made by the appropriate authorities of the jurisdiction in which that person is imprisoned.

(m) If the board is considering the release on parole of an offender who is serving a sentence of life in prison, a determinate term of imprisonment of at least ten (10) years, or an indeterminate term of imprisonment with a minimum term of at least ten (10) years, in addition to the investigation required under subsection (b), the board shall order and consider a community investigation, which must include an investigation and report that substantially reflects the attitudes and opinions of:

(1) the community in which the crime committed by the offender occurred;
(2) law enforcement officers who have jurisdiction in the community in which the crime occurred;
(3) the victim of the crime committed by the offender, or if the victim is deceased or incompetent for any reason, the victim's relatives or friends; and
(4) friends or relatives of the offender.

If the board recomiders for release on parole an offender who was previously released on parole and whose parole was revoked under section 10 of this chapter, the board may use a community investigation prepared for an earlier parole hearing to comply with this subsection. However, the board shall accept and consider any supplements or amendments to any previous statements from the victim or the victim's relatives or friends.

(n) As used in this section, "victim" means a person who has suffered direct harm as a result of a violent crime (as defined in IC 5-2-6.1-8).

SECTION 15. IC 11-13-3-4, AS AMENDED BY SEA 246-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

(1) retained by the parolee;
(2) forwarded to any person charged with the parolee's supervision; and
(3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and has ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parolee may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:
(1) consider:
   (A) the residence of the parolee prior to the parolee's incarceration; and
   (B) the parolee's place of employment; and
(2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

   (1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and
   (2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

   (1) may require a parolee who is a sex and violent offender (as defined in IC 5-2-12-4 IC 11-8-8-5) to:
      (A) participate in a treatment program for sex offenders approved by the parole board; and
      (B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:
         (i) receives the parole board's approval; or
         (ii) successfully completes the treatment program referred to in clause (A); and
   (2) shall:
      (A) require a parolee who is a sex offender (as defined in IC 5-2-12-4 IC 11-8-8-5) to register with a sheriff (or the police chief of a consolidated city) local law enforcement authority under IC 5-2-12-5 IC 11-8-8;
      (B) prohibit the sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the sex offender obtains written approval from the parole board; and
      (C) prohibit a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense unless the sex offender obtains a waiver under IC 35-38-2-2.5; and
      (D) prohibit a parolee from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age.

The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) a waiver under subdivision (2)(B) or (2)(C). If the parole board allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the sex offender obtains a waiver under IC 35-38-2-2.5.

(i) As a condition of parole, the parole board:

   (1) shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5; and
   (2) may require a parolee who is a sex offender (as defined in IC 11-8-8-5); to wear a monitoring device (as described in IC 35-38-2-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location.

(j) As a condition of parole, the parole board may prohibit, in accordance with IC 35-38-2-2.6, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.

SECTION 16. IC 11-13-6-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5.5. (a) This section shall not be construed to limit victims' rights granted by IC 35-40 or any other law.

(b) As used in this section, "sex offense" refers to a sex offense described in IC 5-2-12-4 IC 11-8-8-5.

(c) As used in this section, "victim" means a person who has suffered direct harm as a result of a delinquent act that would be a sex offense if the delinquent offender were an adult. The term includes a victim's representative appointed under IC 35-40-13.

(d) Unless a victim has requested in writing not to be notified, the department shall notify the victim involved in the adjudication of a delinquent offender committed to the department for a sex offense of the delinquent offender's:

   (1) discharge from the department of correction;
   (2) release from the department of correction under any temporary release program administered by the department;
   (3) release on parole;
   (4) parole release hearing under this chapter;
   (5) parole violation hearing under this chapter; or
   (6) escape from commitment to the department of correction.

The department shall supply the information to a victim at the address supplied to the department by the victim. A victim is responsible for supplying the department with any change of address or telephone number of the victim.

(f) The probation officer or caseworker preparing the predispositional report under IC 31-37-17 shall inform the victim before the predispositional report is prepared of the right of the victim to receive notification from the department under subsection (d). The probation department or county office of family and children shall forward the most recent list of the addresses or telephone numbers, or both, of victims to the department. The probation department or county office of family and children shall supply the department with the information required by this section as soon as possible but not later than five (5) days after the receipt of the information. A victim is responsible for supplying the department with the correct address and telephone number of the victim.

(g) Notwithstanding IC 11-8-5-2 and IC 4-1-6, a delinquent offender may not have access to the name and address of a victim. Upon the filing of a motion by a person requesting or objecting to the release of victim information or representative information, or both, that is retained by the department, the court shall review in camera the information that is the subject of the motion before ruling on the motion.

(h) The notice required under subsection (d) must specify whether the delinquent offender is being discharged, is being released under a temporary release program administered by the department, is being released on parole, is having a parole release hearing, is having a parole violation hearing, or has escaped. The notice must contain the following information:

   (1) the name of the delinquent offender;
   (2) the date of the delinquent act;
   (3) the date of the adjudication as a delinquent offender;
   (4) the delinquent act of which the delinquent offender was adjudicated;
   (5) the disposition imposed;
   (6) the amount of time for which the delinquent offender was committed to the department;
   (7) the date and location of the interview (if applicable).

SECTION 17. IC 31-19-11-1, AS AMENDED BY P.L.129-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Whenever the court has heard the evidence and finds that:

   (1) the adoption requested is in the best interest of the child;
   (2) the petitioner or petitioners for adoption are of sufficient ability to rear the child and furnish suitable support and education;

   (9) the court finds that the adoption is in the best interest of the child and that adoption is in the best interest of the child;
(3) the report of the investigation and recommendation under IC 31-19-8-5 has been filed;
(4) the attorney or agency arranging an adoption has filed with the court an affidavit prepared by the state department of health under IC 31-19-5-16 indicating whether a man is entitled to notice of the adoption because the man has registered with the putative father registry in accordance with IC 31-19-5;
(5) proper notice arising under subdivision (4), if notice is necessary, of the adoption has been given;
(6) the attorney or agency has filed with the court an affidavit prepared by the state department of health under:
   (A) IC 31-19-6 indicating whether a record of a paternity determination; or
   (B) IC 16-37-2-2(g) indicating whether a paternity affidavit executed under IC 16-37-2-2.1; has been filed in relation to the child;
(7) proper consent, if consent is necessary, to the adoption has been given;
(8) the petitioner for adoption is not prohibited from adopting the child as the result of an inappropriate criminal history described in subsection (c) or (d); and
(9) the person, licensed child placing agency, or county office of family and children that has placed the child for adoption has provided the documents and other information required under IC 31-19-17 to the prospective adoptive parents; the court shall grant the petition for adoption and enter an adoption decree.

(b) A court may not grant an adoption unless the department's affidavit under IC 31-19-5-16 is filed with the court as provided under subsection (a)(4).

(c) A conviction of a felony or a misdemeanor related to the health and safety of a child by a petitioner for adoption is a permissible basis for the court to deny the petition for adoption. In addition, the court may not grant an adoption if a petitioner for adoption has been convicted of any of the felonies described as follows:

   (1) Murder (IC 35-42-1.1).
   (2) Causing suicide (IC 35-42-1.2).
   (3) Assisting suicide (IC 35-42-1.2.5).
   (4) Voluntary manslaughter (IC 35-42-1.3).
   (5) Reckless homicide (IC 35-42-1.5).
   (6) Battery as a felony (IC 35-42-2.1).
   (7) Aggravated battery (IC 35-42-2.1.5).
   (8) Kidnapping (IC 35-42-3.2).
   (9) Criminal confinement (IC 35-42-3.3).
   (10) A felony sex offense under IC 35-42-4.
   (11) Carjacking (IC 35-42-5.2).
   (12) Arson (IC 35-43-1.1).
   (13) Incest (IC 35-43-1.3).
   (14) Neglect of a dependent (IC 35-46-1.4(a)(1) and IC 35-46-1.4(a)(2)).
   (15) Child selling (IC 35-46-1.4(d)).
   (16) A felony involving a weapon under IC 35-47 or IC 35-47.5.
   (17) A felony relating to controlled substances under IC 35-48.4.
   (18) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49.3.
   (19) A felony that is substantially equivalent to a felony listed in subdivisions (1) through (18) for which the conviction was entered in another state.

However, the court is not prohibited from granting an adoption based upon a felony conviction under subdivision (6), (11), (12), (16), or (17), or its equivalent under subdivision (19), if the offense was not committed within the immediately preceding five (5) year period.

(d) A court may not grant an adoption if the petitioner is a sex offender (as defined in IC 5-2-12-6) or a sexual predator (as described in IC 35-38-1-7.5); or

(2) a person who was at least eighteen (18) years of age at the time of the offense and who committed child molesting (IC 35-42-4-3) or sexual misconduct with a minor (IC 35-42-4-9) against a child less than sixteen (16) years of age:
   (A) by using or threatening the use of deadly force;
   (B) while armed with a deadly weapon; or
   (C) that resulted in serious bodily injury.

SECTION 19. IC 31-37-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) The juvenile court may, in addition to an order under section 6 of this chapter, enter at least one (1) of the following dispositional decrees:

   (1) Order supervision of the child by:
      (A) the probation department; or
      (B) the county office of family and children.

As a condition of probation under this subdivision, the juvenile court shall after a determination under IC 5-2-12-4 IC 11-8-8-5 require a child who is adjudicated a delinquent child for an act that would be an offense described in IC 5-2-12-4 IC 11-8-8-5 if committed by an adult to register with the sheriff (or the police chief of a consolidated city or local law enforcement authority under IC 5-2-12). IC 11-8-8.

(2) Order the child to receive outpatient treatment:
   (A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or
   (B) from an individual practitioner.

(3) Order the child to surrender the child's driver's license to the court for a specified period of time.

(4) Order the child to pay restitution if the victim provides reasonable evidence of the victim's loss, which the child may challenge at the dispositional hearing.

(5) Partially or completely emancipate the child under section 27 of this chapter.

(6) Order the child to attend an alcohol and drug services program established under IC 12-23-14.

(7) Order the child to perform community restitution or service for a specified period of time.

(8) Order wardship of the child as provided in section 9 of this chapter.

SECTION 20. IC 31-37-19-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) After a juvenile court makes a determination under IC 5-2-12-4, IC 11-8-8-5, the juvenile court may, in addition to an order under section 6 of this chapter, and if the child:

   (1) is at least thirteen (13) years of age and less than sixteen (16) years of age; and
   (2) committed an act that, if committed by an adult, would be:
      (A) murder (IC 35-42-1.1);
      (B) kidnapping (IC 35-42-3.2);
      (C) rape (IC 35-42-1.1);
      (D) criminal deviate conduct (IC 35-42-4.1); or
      (E) robbery (IC 35-42-5.1) if the robbery was committed while armed with a deadly weapon or if the robbery resulted in bodily injury or serious bodily injury;

order wardship of the child to the department of correction for a fixed period that is not longer than the date the child becomes eighteen (18) years of age, subject to IC 11-10-2-10.

(c) Notwithstanding IC 11-10-2-5, the department of correction may not reduce the period ordered under this section (or IC 31-6-4-15.9(b)(8) before its repeal).

SECTION 21. IC 35-38-1-7.5, AS AMENDED BY SEA 246-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7.5. (a) As used in this section, "sexually violent predator" means a person who suffers from a mental abnormality or personality disorder that makes the individual likely to repeatedly engage in any of the offenses described in IC 5-2-12-4 or IC 11-8-8-5. The term includes a person convicted in another jurisdiction who is identified as a sexually violent predator under IC 11-8-8-20. The term does not include a person no longer considered a sexually violent predator under subsection (g).
(b) A person who:
(1) being at least eighteen (18) years of age, commits an offense described in IC 5-2-12-4:
    (A) by using or threatening the use of deadly force;
    (B) while armed with a deadly weapon; or
    (C) that results in serious bodily injury to a person other than a defendant;

    (2) is at least eighteen (18) years of age and commits an offense described in IC 5-2-12-4 against a child less than twelve (12) years of age;

    (3) commits an offense described in IC 5-2-12-4 while having a previous unrelated conviction for an offense described in IC 5-2-12-4 for which the person is required to register as an offender under IC 5-2-12;

(a) IC 35-42-4-1;
(b) IC 35-42-4-2;
(c) IC 35-42-4-3 as a Class A or Class B felony;
(d) IC 35-42-4-5(a)(1);
(e) IC 35-42-4-5(a)(2);
(f) IC 35-42-4-5(a)(3);
(g) IC 35-42-4-5(b)(1) as a Class A or Class B felony;
(h) IC 35-42-4-5(b)(2); or
(i) IC 35-42-4-5(b)(3) as a Class A or Class B felony; or

is a sexually violent predator.

(c) This section applies whenever a court sentences a person for a sex offense listed in IC 5-2-12-4 IC 11-8-8-5 for which the person is required to register with the sheriff (or the police chief of a consolidated city) local law enforcement authority under IC 5-2-12-4 IC 11-8-8.

(d) At the sentencing hearing, the court shall determine whether the person is a sexually violent predator under subsection (b).

(e) If the court does not find the person to be a sexually violent predator under subsection (b), the court shall consult with a board of experts consisting of two (2) board certified psychologists or psychiatrists who have expertise in criminal behavioral disorders to determine if the person is a sexually violent predator under subsection (a).

(f) If the court finds that a person is a sexually violent predator:

(1) the person is required to register with the sheriff (or the police chief of a consolidated city) local law enforcement authority as provided in IC 5-2-12-4 IC 11-8-8; and

(2) the court shall send notice of its finding under this subsection to the criminal justice institute department of correction.

(g) A person who is found by a court to be a sexually violent predator under subsection (e) may petition the court to consider whether the person is should no longer be considered a sexually violent predator. The person may file a petition under this subsection not earlier than ten (10) years after:

(1) the sentencing court makes its finding under subsection (e); or

(2) a person found to be a sexually violent predator under subsection (b) is released from incarceration.

A person may file a petition under this subsection not more than one (1) time per year. If a court finds that the person is should no longer be considered a sexually violent predator, the court shall send notice to the Indiana criminal justice institute department of correction that the person is no longer considered a sexually violent predator. Notwithstanding any other law, a condition imposed on a person due to the person’s status as a sexually violent predator, including lifetime parole or GPS monitoring, does not apply to a person no longer considered a sexually violent predator.

SECTION 22. IC 35-38-1-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 27. (a) If a court imposes a sentence that does not involve a commitment to the department of correction, the court shall require a person:

(1) convicted of an offense described in IC 10-13-6-10; and

(2) who has not previously provided a DNA sample in accordance with IC 10-13-6;

(2) to provide a DNA sample as a condition of the sentence.

(b) If a person described in subsection (a) is confined at the time of sentencing, the court shall order the person to provide a DNA sample immediately after sentencing.

(c) If a person described in subsection (a) is not confined at the time of sentencing, the agency supervising the person after sentencing shall establish the date, time, and location for the person to provide a DNA sample. However, the supervising agency must require that the DNA sample be provided not more than seven (7) days after sentencing. A supervising agency’s failure to obtain a DNA sample not more than seven (7) days after sentencing does not permit a person required to provide a DNA sample to challenge the requirement that the person provide a DNA sample at a later date.

(d) A person’s failure to provide a DNA sample is grounds for revocation of the person’s probation, community corrections placement, or other conditional release.

SECTION 23. IC 35-38-2-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.2. As a condition of probation for an sex offender (as defined in IC 5-2-12-5), the court shall:

(1) require the sex offender to register with the sheriff for the police chief of a consolidated city local law enforcement authority under IC 5-2-12-5 IC 11-8-8; and

(2) prohibit the sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of probation, unless the sex offender obtains written approval from the court.

If the court allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2), the court shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

SECTION 24. IC 35-38-2-2.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.3. (a) As a condition of probation, the court may require a person to do a combination of the following:

(1) Work faithfully at suitable employment or faithfully pursue a course of study or vocational training that will equip the person for suitable employment.

(2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.

(3) Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.

(4) Support the person's dependents and meet other family responsibilities.

(5) Make restitution or reparation to the victim of the crime for damage or injury that was sustained by the victim. When restitution or reparation is a condition of probation, the court shall fix the amount, which may not exceed an amount the person can or will be able to pay, and shall fix the manner of performance.

(6) Execute a repayment agreement with the appropriate governmental entity to repay the full amount of public relief or assistance wrongfully received, and make repayments according to a repayment schedule set out in the agreement.

(7) Pay a fine authorized by IC 35-50.

(8) Refrain from possessing a firearm or other deadly weapon unless granted written permission by the court or the person's probation officer.

(9) Report to a probation officer at reasonable times as directed by the court or the probation officer.

(10) Permit the person's probation officer to visit the person at reasonable times at the person's home or elsewhere.

(11) Remain within the jurisdiction of the court, unless granted permission to leave by the court or by the person's probation officer.

(12) Answer all reasonable inquiries by the court or the person's probation officer and promptly notify the court or probation officer of any change in address or employment.

(13) Perform uncompensated work that benefits the community.

(14) Satisfy other conditions reasonably related to the person's rehabilitation.
(15) Undergo home detention under IC 35-38-2.5.
(16) Undergo a laboratory test or series of tests approved by the state department of health to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV), if:
(A) the person had been convicted of a sex crime listed in IC 35-38-1.7.1(e) and the crime created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV) as described in IC 35-38-1.7.1(b)(8); or
(B) the person had been convicted of an offense related to a controlled substance listed in IC 35-38-1.7.1(f) and the offense involved the conditions described in IC 35-38-1.7.1(b)(9)(A).
(17) Refrain from any direct or indirect contact with an individual.
(18) Execute a repayment agreement with the appropriate governmental entity or with a person for reasonable costs incurred because of the taking, detention, or return of a missing child (as defined in IC 10-13-5-4).
(19) Periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of chemical tests as specified by the court to detect and confirm the presence of a controlled substance as defined in IC 35-48-1.9. The person on probation is responsible for any charges resulting from a test and shall have the results of any test under this subdivision reported to the person's probation officer by the laboratory.
(20) If the person was confined in a penal facility, execute a reimbursement plan as directed by the court and make repayments under the plan to the authority that operates the penal facility for all or part of the costs of the person's confinement in the penal facility. The court shall fix an amount that:
(A) may not exceed an amount the person can or will be able to pay;
(B) does not harm the person's ability to reasonably be self-supporting or to reasonably support any dependent of the person; and
(C) takes into consideration and gives priority to any other restitution, reparation, repayment, or fine the person is required to pay under this section.
(21) Refrain from owning, harboring, or training an animal.
(b) When a person is placed on probation, the person shall be given a written statement specifying:
(1) the conditions of probation; and
(2) that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:
   (A) One (1) year after the termination of probation.
   (B) Forty-five (45) days after the state receives notice of the violation.
(c) As a condition of probation, the court may require that the person serve a term of imprisonment in an appropriate facility at the time or intervals (consecutive or intermittent) within the period of probation the court determines.
(d) Intermittent service may be required only for a term of not more than sixty (60) days and must be served in the county or local penal facility. The intermittent term is computed on the basis of the actual days spent in confinement and shall be completed within one (1) year. A person does not earn credit time while serving an intermittent term of imprisonment under this subsection. When the court orders intermittent service, the court shall state:
   (1) the term of imprisonment;
   (2) the days or parts of days during which a person is to be confined; and
   (3) the conditions.
(e) Supervision of a person may be transferred from the court that placed the person on probation to a court of another jurisdiction, with the concurrence of both courts. Retransfers of supervision may occur in the same manner. This subsection does not apply to transfers made under IC 11-13-4 or IC 11-13-5.
(f) When a court imposes a condition of probation described in subsection (a)(17):
(1) the clerk of the court shall comply with IC 5-2-9; and
(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.
(g) As a condition of probation, a court shall require a person:
(1) convicted of an offense described in IC 10-13-6-10;
(2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and
(3) whose sentence does not involve a commitment to the department of correction;
to provide a DNA sample as a condition of probation.
SECTION 25. IC 35-38-2.2.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.4. As a condition of probation, the court may require an sex offender (as defined in IC 5-2.12-4) IC 11-8-8-5) to:
(1) participate in a treatment program for sex offenders approved by the court; and
(2) avoid contact with any person who is less than sixteen (16) years of age unless the probationer:
   (A) receives the court's approval; or
   (B) successfully completes the treatment program referred to in subdivision (1).
SECTION 26. IC 35-38-2.2.5, AS AMENDED BY SEA 246-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.5. (a) As used in this section, "offender" means an individual convicted of a sex offense.
(b) As used in this section, "sex offense" means any of the following:
(1) Rape (IC 35-42-4-1).
(2) Criminal deviate conduct (IC 35-42-4-2).
(3) Child molesting (IC 35-42-4-3).
(4) Child exploitation (IC 35-42-4-4(b)).
(5) Vicarious sexual gratification (IC 35-42-4-5).
(6) Child solicitation (IC 35-42-4-6).
(7) Child seduction (IC 35-42-4-7).
(8) Sexual battery (IC 35-42-4-8).
(9) Sexual misconduct with a minor as a felony (IC 35-42-4-9).
(10) Incest (IC 35-46-1-3).
(c) A condition of remaining on probation or parole after conviction for a sex offense is that the offender not reside within one (1) mile of the residence of the victim of the offender's sex offense.
(d) An offender:
(1) who will be placed on probation shall provide the sentencing court and the probation department with the address where the offender intends to reside during the period of probation:
   (A) at the time of sentencing if the offender will be placed on probation without first being incarcerated; or
   (B) before the offender's release from incarceration if the offender will be placed on probation after completing a term of incarceration; or
   (2) who will be placed on parole shall provide the parole board with the address where the offender intends to reside during the period of parole.
(e) An offender, while on probation or parole, may not establish a new residence within one (1) mile of the residence of the victim of the offender's sex offense unless the offender first obtains a waiver from:
(1) court, if the offender is placed on probation; or
(2) parole board, if the offender is placed on parole; for the change of address under subsection (f).
(f) The court or parole board may waive the requirement set forth in subsection (e) only if the court or parole board, at a hearing at which the offender is present and of which the prosecuting attorney has been notified, determines that:
(1) the offender has successfully completed a sex offender treatment program during the period of probation or parole;
(2) the offender is in compliance with all terms of the offender's probation or parole; and
(3) good cause exists to allow the offender to reside within one (1) mile of the residence of the victim of the offender's sex offense.
However, the court or parole board may not grant a waiver.
under this subsection if the offender is a sexually violent predator under IC 35-38-1-7.5.

(g) If the court or parole board grants a waiver under subsection (f), the court or parole board shall state in writing the reasons for granting the waiver. The court's written statement of its reasons shall be incorporated into the record.

(1) (h) The address of the victim of the offender's sex offense is confidential even if the court or parole board grants a waiver under subsection (f).

SECTION 27. IC 35-38-2-2.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 2.6. (a) As a condition of remaining on probation or parole after a conviction for stalking (IC 35-45-10-5), a court may prohibit a person from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.

(b) A person:

(1) who will be placed on probation shall provide the sentencing court and the probation department with the address where the person intends to reside during the period of probation:

(A) at the time of sentencing if the person will be placed on probation without first being incarcerated; or

(B) before the person's release from incarceration if the person will be placed on probation after completing a term of incarceration; or

(2) who will be placed on parole shall provide the parole board with the address where the person intends to reside during the period of parole.

(c) A person, while on probation or parole, may not reside within one thousand (1,000) feet of the residence of the victim of the stalking unless the person first obtains a waiver under subsection (d) from the:

(1) court, if the person is placed on probation; or

(2) parole board, if the person is placed on parole.

(d) The court or parole board may waive the requirement set forth in subsection (c) only if the court or parole board, at a hearing at which the person is present and of which the prosecuting attorney has been notified, determines that:

(1) the person is in compliance with all terms of the person's probation or parole; and

(2) good cause exists to allow the person to reside within one thousand (1,000) feet of the residence of the victim of the stalking.

(e) If the court or parole board grants a waiver under subsection (d), the court or parole board shall state in writing the reasons for granting the waiver. The court's written statement of its reasons shall be incorporated into the record.

(f) The address of the victim of the stalking is confidential even if the court or parole board grants a waiver under subsection (d).

SECTION 28. IC 35-38-2.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 6. An order for home detention of an offender under section 5 of this chapter must include the following:

(1) A requirement that the offender be confined to the offender's home at all times except when the offender is:

(A) working at employment approved by the court or traveling to or from approved employment;

(B) unemployed and seeking employment approved for the offender by the court;

(C) undergoing medical, psychiatric, mental health treatment, counseling, or other treatment programs approved for the offender by the court;

(D) attending an educational institution or a program approved for the offender by the court;

(E) attending a regularly scheduled religious service at a place of worship; or

(F) participating in a community work release or community restitution or service program approved for the offender by the court.

(2) Notice to the offender that violation of the order for home detention may subject the offender to prosecution for the crime of escape under IC 35-44-3-5.

(3) A requirement that the offender abide by a schedule prepared by the probation department, or by a community corrections program ordered to provide supervision of the offender's home detention, specifically setting forth the times when the offender may be absent from the offender's home and the locations the offender is allowed to be during the scheduled absences.

(4) A requirement that the offender is not to commit another crime during the period of home detention ordered by the court.

(5) A requirement that the offender obtain approval from another probation department or from a community corrections program ordered to provide supervision of the offender's home detention before the offender changes residence or the schedule described in subdivision (3).

(6) A requirement that the offender maintain:

(A) a working telephone in the offender's home; and

(B) if ordered by the court, a monitoring device in the offender's home or on the offender's person, or both.

(7) A requirement that the offender pay a home detention fee set by the court in addition to the probation user's fee required under IC 35-38-2-1 or IC 31-40. However, the fee set under this subdivision may not exceed the maximum fee specified by the department of correction under IC 11-12-2-12.

(8) A requirement that the offender abide by other conditions of probation set by the court under IC 35-38-2-2.3.

(9) A requirement that an offender:

(1) convicted of an offense described in IC 10-13-6-10;

(2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and

(3) whose sentence does not involve a commitment to the department of correction;

provide a DNA sample.

SECTION 29. IC 35-38-2.6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 3. (a) The court may, at the time of sentencing, suspend the sentence and order a person to:

(1) convicted of an offense described in IC 10-13-6-10;

(2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and

(3) whose sentence does not involve a commitment to the department of correction;

to provide a DNA sample as a term of placement.

(b) Placement in a community corrections program under this chapter is subject to the availability of residential beds or home detention units in a community corrections program.

(c) A person placed under this chapter is responsible for the person's own medical care while in the placement program.

(d) Placement under this chapter is subject to the community corrections program receiving a written presentence report or memorandum from a county probation agency.

SECTION 30. IC 35-41-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 2. (a) Except as otherwise provided in this section, a prosecution for an offense is barred unless it is commenced:

(1) within five (5) years after the commission of the offense, in the case of a Class B, Class C, or Class D felony; or

(2) within two (2) years after the commission of the offense, in the case of a misdemeanor.

(b) A prosecution for a Class B or Class C felony that would otherwise be barred under this section may be commenced within one (1) year after the earlier of the date on which the state:

(1) first discovers the identity of evidence sufficient to charge the offender with the offense through DNA (deoxyribonucleic acid) evidence analysis; or

(2) could have discovered the identity of evidence sufficient to charge the offender with the offense through DNA (deoxyribonucleic acid) evidence analysis by the exercise of due diligence.

However, for a Class B or Class C felony in which the state first discovered the identity of an offender with DNA (deoxyribonucleic acid) evidence after the time otherwise allowed for prosecution and
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Section 2. As used in this section, "offender against children" means a person required to register as a sex offender or was required to register as a sex offender directly (IC 5-2-6-3) contained data relating to a person required to register as a sex offender under IC 11-8-8 and the person is a sex offender or was not required to register as a sex offender; (iv) the property damaged was a locomotive, a railroad car, a train, or equipment of a railroad company being operated on a railroad right-of-way; (v) the property damaged was a part of any railroad signal system, train control system, centralized dispatching system, or highway railroad grade crossing warning signal on a railroad right-of-way owned, leased, or operated by a railroad company; (vi) the property damaged was any rail, switch, roadbed, viaduct, bridge, trestle, culvert, or embankment on a right-of-way owned, leased, or operated by a railroad company; (vii) the property damage or defacement was caused by paint or other markings; and

(b) A Class D felony if:
(i) the pecuniary loss is at least two thousand five hundred dollars ($2,500); (ii) the damage causes a substantial interruption or impairment of utility service rendered to the public; (iii) the damage is to a public record; (iv) the property damaged or defaced was a copy of the sex and violent offender directory (IC 5-2-6-3) contained data relating to a person required to register as a sex offender under IC 11-8-8 and the person is a sex offender or was required to register as a sex offender; (v) the damage causes substantial interruption or impairment of work conducted in a scientific research facility; (vi) the damage is to a law enforcement animal (as defined in IC 35-46-3-4.5); or (vii) the damage causes substantial interruption or
commits a Class D felony.  
(b) This section does not apply if a person disseminates, displays, or makes available the matter described in subsection (a) through the Internet, computer electronic transfer, or a computer network unless: 
  (1) the matter is obscene under IC 35-49-2-1;  
  (2) the matter is child pornography under IC 35-42-4-4; or 
  (3) the person distributes the matter to a child less than eighteen (18) years of age believing or intending that the recipient is a child less than eighteen (18) years of age. 

SECTION 36. IC 35-50-2-2, AS AMENDED BY P.L.213-2005  
SECTION 7, IS AMENDED TO READ AS FOLLOWS  [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.  
(b) With respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence, unless the court has approved placement of the offender in a forensic diversion program under IC 11-12-3.7: 
  (1) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.  
  (2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.  
  (3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2-5 instead of the minimum sentence specified for the crime under this chapter.  
  (4) The felony committed was: 
    (A) murder (IC 35-42-1-1);  
    (B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;  
    (C) sexual battery (IC 35-42-4-8) with a deadly weapon;  
    (D) kidnapping (IC 35-42-3-2);  
    (E) confinement (IC 35-42-3-3) with a deadly weapon;  
    (F) rape (IC 35-42-4-1) as a Class A felony;  
    (G) criminal deviate conduct (IC 35-42-4-2) as a Class A felony;  
    (H) child molesting (IC 35-42-4-3) as a Class A or Class B felony;  
    (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;  
    (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;  
    (K) burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;  
    (L) resisting law enforcement (IC 35-44-3-3) with a deadly weapon;  
    (M) escape (IC 35-44-3-5) with a deadly weapon;  
    (N) rioting (IC 35-45-1-2) with a deadly weapon;  
    (O) dealing in cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:  
      (i) school property;  
      (ii) a public park;  
      (iii) a family housing complex; or  
      (iv) a youth program center;  
    (P) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person.

improvement of work conducted in a food processing facility.  
(b) A person who recklessly, knowingly, or intentionally damages: 
  (1) a structure used for religious worship;  
  (2) a school or community center;  
  (3) the grounds:  
    (A) adjacent to; and  
    (B) owned or rented in common with;  
  a structure or facility identified in subdivision (1) or (2); or 
  (4) personal property contained in a structure or located at a facility identified in subdivision (1) or (2); 
  without the consent of the owner, possessor, or occupant of the property that is damaged, commits institutional criminal mischief, a Class A misdemeanor. However, the offense is a Class D felony if the pecuniary loss is at least two thousand fifty dollars ($250) but less than two thousand five hundred dollars ($2,500), and a Class C felony if the pecuniary loss is at least two thousand five hundred dollars ($2,500).  
(c) If a person is convicted of an offense under this section that involves the use of graffiti, the court may, in addition to any other penalty, order that the person’s operator’s license be suspended or invalidated by the bureau of motor vehicles for not more than one (1) year.  
(d) The court may rescind an order for suspension or invalidation under subsection (c) and allow the person to receive a license or permit before the period of suspension or invalidation ends if the court determines that:  
  (1) the person has removed or painted over the graffiti or has made other suitable restitution; and  
  (2) the person who owns the property damaged or defaced by the criminal mischief or institutional criminal mischief is satisfied with the removal, painting, or other restitution performed by the person.  
SECTION 34. IC 35-44-3-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS  [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) A person who is being supervised on lifetime parole (as described in IC 35-50-6-1) and who knowingly or intentionally violates a condition of lifetime parole that involves direct or indirect contact with a child less than sixteen (16) years of age or with the victim of a sex crime described in IC 11-8-8-5 that was committed by the person commits a Class D felony if, at the time of the violation:  
  (1) the person’s lifetime parole has been revoked two (2) or more times; or  
  (2) the person has completed the person’s sentence, including any credit time the person may have earned.  
(b) The offense described in subsection (a) is a Class C felony if the person has a prior unrelated conviction under this section.  
SECTION 35. IC 35-49-3-3 IS AMENDED TO READ AS FOLLOWS  [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) Except as provided in subsection (b), a person who knowingly or intentionally:  
  (1) disseminates matter to minors that is harmful to minors;  
  (2) displays matter that is harmful to minors in an area to which minors have visual, auditory, or physical access, unless each minor is accompanied by the minor’s parent or guardian;  
  (3) sells, rents, or displays for sale or rent to any person matter that is harmful to minors within five hundred (500) feet of the nearest property line of a school or church;  
  (4) engages in or conducts a performance before minors that is harmful to minors;  
  (5) engages in or conducts a performance that is harmful to minors in an area to which minors have visual, auditory, or physical access, unless each minor is accompanied by the minor’s parent or guardian;  
  (6) misrepresents the minor’s age for the purpose of obtaining admission to an area from which minors are restricted because of the display of matter or a performance that is harmful to minors; or  
  (7) misrepresents that the person is a parent or guardian of a minor for the purpose of obtaining admission of the minor to an area where minors are being restricted because of display of matter or performance that is harmful to minors;  
  (IC 35-42-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age believing or intending that the recipient is a child less than eighteen (18) years of age.
years junior to the person and was on a school bus or within one thousand (1,000) feet of:
(i) school property;
(ii) a public park;
(iii) a family housing complex; or
(iv) a youth program center;
(Q) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5;
(R) an offense under IC 9-30-5.5(b) (operating a vehicle while intoxicated causing death); or
(S) aggravated battery (IC 35-42-2-1.5).
(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.
(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon.
(e) Whenever the court suspends that part of the sex offender’s sentence that is suspended under subsection (b), the court shall place the sex offender on probation under IC 35-38-2 for not more than ten (10) years.
(f) An additional term of imprisonment imposed under IC 35-50-2-11 may not be suspended.
(g) A term of imprisonment imposed under IC 35-47-10-6 or IC 35-47-10-7 may not be suspended if the commission of the offense was knowing or intentional.
(h) A term of imprisonment imposed for an offense under IC 35-48-4-6(b)(1)(B) may not be suspended.
SECTION 38. IC 35-50-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) Except as provided in subsection (d) or (e), when a person imprisoned for a felony completes the person’s fixed term of imprisonment, less the credit time the person has earned with respect to that term, the person shall be:
(1) released on parole for not more than twenty-four (24) months, as determined by the parole board;
(2) discharged upon a finding by the committing court that the person was assigned to a community transition program and may be discharged without the requirement of parole; or
(3) released to the committing court if the sentence included a period of probation.
(b) Except as provided in subsection (d), This subsection does not apply to a person described in subsection (d), (e), or (f). A person released on parole remains on parole from the date of release until the person’s fixed term expires, unless the person’s parole is revoked or the parole board may, in any event, if the person’s parole is not revoked, the parole board shall discharge the person after the period set under subsection (a) or the expiration of the person’s fixed term, whichever is shorter.
(c) A person whose parole is revoked shall be imprisoned for all or part of the remainder of the person’s fixed term. However, if the person shall again be released on parole when the person completes that remainder, less the credit time the person has earned since the revocation. The parole board may reinstate the person on parole at any time after the revocation.
(d) This subsection does not apply to a person who is a sexually violent predator under IC 35-38-1-7.5. When a sex offender as defined in IC 5-2-12-4 IC 11-8-8-5 completes the sex offender’s fixed term of imprisonment, less credit time earned with respect to that term, the sex offender shall be placed on parole for not more than ten (10) years.
(e) This subsection applies to a person who is a sexually violent predator under IC 35-38-1-7.5. When a sexually violent predator completes the person’s fixed term of imprisonment, less credit time earned with respect to that term, the person shall be placed on parole for the remainder of the person’s life.
(f) This subsection applies to a parolee in another jurisdiction who is a sexually violent predator under IC 35-38-1-7.5 and whose parole supervision is transferred to Indiana from another jurisdiction. In accordance with IC 11-13-4-1(2) (Interstate Compact for Out-of-State Probationers and Parolees) and rules adopted under Article VII (d)(8) of the Interstate Compact for Adult Offender Supervision (IC 11-13-4-5), a parolee who is a sexually violent predator and whose parole supervision is transferred to Indiana is subject to the same conditions of parole as a sexually violent predator convicted in Indiana, including:
(1) lifetime parole as described in subsection (e); and
(2) the requirement that the person wear a monitoring device (as described in IC 35-38-2-5.3) that can transmit information twenty-four (24) hours each day regarding a person’s precise location, if applicable.
(g) If a person being supervised on lifetime parole as described in subsection (e) is also required to be supervised by a court, a probation department, a community corrections program, a community transition program, or another similar program upon the person’s release from imprisonment, the parole board may:
(1) supervise the person while the person is being supervised by the other supervising agency; or
(2) permit the other supervising agency to exercise all or part of the parole board’s supervisory responsibility during the period in which the other supervising agency is required to supervise the person, if supervision by the other supervising agency will be, in the opinion of the parole board:
(A) at least as stringent; and
(B) at least as effective;
as supervision by the parole board.
(h) The parole board is not required to supervise a person on lifetime parole during any period in which the person is imprisoned. However, upon the person’s release from
imprisonment, the parole board shall recommend its supervision of a person on lifetime parole.

SECTION 39. IC 35-50-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) A person may, with respect to the same transaction, be deprived of any part of the credit time in the sentence that he has earned for any of the following:
   (1) A violation of one (1) or more rules of the department of correction.
   (2) If the person is not committed to the department, a violation of one (1) or more rules of the penal facility in which the person is imprisoned.
   (3) A violation of one (1) or more rules or conditions of a community transition program.
   (4) If a court determines that a civil claim brought by the person in a state or an administrative court is frivolous, unreasonable, or groundless.
   (5) If the person is a sex offender (as defined in IC 11-8-8-5) and refuses to register before being released from the department as required under IC 11-8-6-7.
   (6) If the person is a sex offender (as defined in IC 11-8-8-5) and refuses to participate in a sex offender treatment program specifically offered to the sex offender by the department of correction while the person is serving a period of incarceration with the department of correction.

However, the violation of a condition of parole or probation may not be the basis for deprivation. Whenever a person is deprived of credit time, he may also be reassigned to Class II or Class III.

(b) Before a person may be deprived of earned credit time, the person must be granted a hearing to determine the person’s guilt or innocence and, if found guilty, whether deprivation of earned credit time is an appropriate disciplinary action for the violation. In connection with the hearing, the person is entitled to the procedural safeguards listed in section 6(c) of this chapter. The person may waive the person’s right to the hearing.

(c) Any part of the credit time of which a person is deprived under this section may be restored.

SECTON 40. IC 36-2-13-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5.5. (a) The sheriff shall jointly establish and maintain an Indiana sex offender registry, to inform the general public about the identity, location, and appearance of every sex offender residing within Indiana. The website shall provide information regarding each sex offender, organized by county of residence. The website shall be updated at least every seven (7) days daily.

(b) The Indiana sex offender website must include the following information:
   (1) A recent photograph of every sex offender who has registered with a sheriff after the effective date of this chapter.
   (2) The home address of every sex offender.
   (3) The information required to be included in the sex offender directory (IC 5-2-12.6) under IC 11-8-8-8.
   (4) Any time a sex offender submits a new registration form to the sheriff registers, but at least once per year, the sheriff shall photograph the sex offender. The sheriff shall place this photograph on the Indiana sex offender website.

(d) The photograph of a sex offender described in subsection (c) must meet the following requirements:
   (1) The photograph must be full face, front view, with a plain white or off-white background.
   (2) The image of the offender’s face, measured from the bottom of the chin to the top of the head, must fill at least seventy-five percent (75%) of the photograph.
   (3) The photograph must be in color.
   (4) The photograph must show the offender dressed in normal street attire, without a hat or headgear that obscures the hair or hairstyle.
   (5) If the offender normally and consistently wears prescription glasses, a hearing device, wig, or a similar article, the photograph must show the offender wearing those items. A photograph may not include dark glasses or nonprescription glasses with tinted lenses unless the offender can provide a medical certificate demonstrating that tinted lenses are required for medical reasons.
   (6) The photograph must have sufficient resolution to permit the offender to be easily identified by a person accessing the Indiana sex offender website.

(e) The Indiana sex offender website may be funded from:
   (1) The jail commissary fund (IC 36-8-10-21);
   (2) A grant from the criminal justice institute; and
   (3) Any other source, subject to the approval of the county fiscal body.

SECTION 41. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 5-2-6-3.5; IC 5-2-12.

SECTION 42. [EFFECTIVE JULY 1, 2006] IC 11-8-8-15, IC 11-8-8-17, IC 11-8-8-18, IC 35-42-4-10, and IC 35-44-3-13, all as added by this act, and IC 35-45-3-3, all as amended by this act, apply only to crimes committed after June 30, 2006.

SECTION 43. [EFFECTIVE JULY 1, 2006] Notwithstanding IC 10-13-6-10, IC 10-13-6-11, IC 35-38-2-2.3, IC 35-38-2-5.6, and IC 35-38-2-6-3, all as amended by this act, and IC 35-38-1-27, as added by this act, a probation department, community corrections department, or other agency supervising an offender on conditional release is not required to collect a DNA sample before October 1, 2006. However, a probation department, community corrections department, or other agency supervising an offender on conditional release is authorized to collect a DNA sample before October 1, 2006, and a DNA sample collected before October 1, 2006, may be analyzed and placed in the convicted offender data base.

SECTION 44. [EFFECTIVE JULY 1, 2006] IC 35-38-2-2.6 and IC 35-50-6-1, both as added by this act, apply only to crimes committed after June 30, 2006.

SECTION 45. [EFFECTIVE UPON PASSAGE] (a) The department of correction shall report to the budget committee on or before August 1, 2006, concerning the estimated costs of implementing IC 11-13-3-4(t), as added by this act, and the feasibility of recovering those costs from offenders.

(b) This SECTION expires July 1, 2007.

SECTION 46. [EFFECTIVE JULY 1, 2006] (a) The department of correction shall report to the legislative council before November 1 of each year concerning the department’s implementation of lifetime parole and GPS monitoring for sex offenders. The report must include information relating to:
   (1) The expense of lifetime parole and GPS monitoring;
   (2) Recidivism; and
   (3) Any proposal to make the program of lifetime parole and GPS monitoring less expensive or more effective, or both.

(b) The report described in subsection (a) must be in an electronic format under IC 5-14.6.

(c) This SECTION expires November 2, 2010.

SECTION 47. P.L.61-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 1. (a) As used in this SECTION, "committee" refers to the sentencing policy study committee established by subsection (c).

(b) The general assembly finds that a comprehensive study of sentencing laws and policies is desirable in order to:
   (1) Ensure that sentencing laws and policies protect the public safety;
   (2) Establish fairness and uniformity in sentencing laws and policies;
   (3) Determine whether incarceration or alternative sanctions are appropriate for various categories of criminal offenses; and
   (4) Maximize cost effectiveness in the administration of sentencing laws and policies.

(c) The sentencing policy study committee is established to evaluate sentencing laws and policies as they relate to:
   (1) The purposes of the criminal justice and corrections systems;
   (2) The availability of sentencing options; and
   (3) The inmate population in department of correction facilities.

If, based on the committee’s evaluation under this subsection, the committee determines changes are necessary or appropriate, the committee shall make recommendations to the general assembly for the modification of sentencing laws and policies and for the addition, deletion, or expansion of sentencing options.
(d) The committee shall do the following:
(1) Evaluate the existing classification of criminal offenses into felony and misdemeanor categories. In determining the proper category for each felony and misdemeanor, the committee shall consider, to the extent they have relevance, the following:
(A) The nature and degree of harm likely to be caused by the offense, including whether the offense involves property, irreplaceable property, a person, a number of persons, or a breach of the public trust.
(B) The deterrent effect a particular classification may have on the commission of the offense.
(C) The current incidence of the offense in Indiana.
(D) The rights of the victim.
(2) Recommend structures to be used by a sentencing court in determining the most appropriate sentence to be imposed in a criminal case, including any combination of imprisonment, probation, restitution, community service, or house arrest. The committee shall also consider the following:
(A) The nature and characteristics of the offense.
(B) The severity of the offense in relation to other offenses.
(C) The characteristics of the defendant that mitigate or aggravate the seriousness of the criminal conduct and the punishment deserved for that conduct.
(D) The defendant's number of prior convictions.
(E) The available resources and capacity of the department of correction, local confinement facilities, and community based sanctions.
(F) The rights of the victim.
The committee shall include with each set of sentencing structures an estimate of the effect of the sentencing structures on the department of correction and local facilities with respect to both fiscal impact and inmate population.
(3) Review community corrections and home detention programs for the purpose of:
(A) standardizing procedures and establishing rules for the supervision of home detainees; and
(B) establishing procedures for the supervision of home detainees by community corrections programs of adjoining counties.
(4) Determine the long range needs of the criminal justice and corrections systems and recommend policy priorities for those systems.
(5) Identify critical problems in the criminal justice and corrections systems and recommend strategies to solve the problems.
(6) Assess the cost effectiveness of the use of state and local funds in the criminal justice and corrections systems.
(7) Recommend a comprehensive community corrections strategy based on the following:
(A) A review of existing community corrections programs.
(B) The identification of additional types of community corrections programs necessary to create an effective continuum of corrections sanctions.
(C) The identification of categories of offenders who should be eligible for sentencing to community corrections programs and the impact that changes to the existing system of community corrections programs would have on sentencing practices.
(D) The identification of necessary changes in state oversight and coordination of community corrections programs.
(E) An evaluation of mechanisms for state funding and local community participation in the operation and implementation of community corrections programs.
(F) An analysis of the rate of recidivism of clients under the supervision of existing community corrections programs.
(8) Propose plans, programs, and legislation for improving the effectiveness of the criminal justice and corrections systems.
(9) Evaluate the use of faith based organizations as an alternative to incarceration.
(10) Study issues related to sex offenders, including:
(A) lifetime parole;
(B) GPS or other electronic monitoring;
(C) a classification system for sex offenders;
(D) recidivism; and
(E) treatment.

(e) The committee may study other topics assigned by the legislative council or as directed by the committee chair. The committee may meet as often as necessary.

(f) The committee consists of nineteen (19) twenty (20) members appointed as follows:
(1) Four (4) members of the senate, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the president pro tempore of the senate.
(2) Four (4) members of the house of representatives, not more than two (2) of whom may be affiliated with the same political party, to be appointed by the speaker of the house of representatives.
(3) The chief justice of the supreme court or the chief justice's designee.
(4) The commissioner of the department of correction or the commissioner's designee.
(5) The director of the Indiana criminal justice institute or the director's designee.
(6) The executive director of the prosecuting attorneys council of Indiana or the executive director's designee.
(7) The executive director of the public defender council of Indiana or the executive director's designee.
(8) One (1) person with experience in administering community corrections programs, appointed by the governor.
(9) One (1) person with experience in administering community corrections programs, appointed by the governor.
(10) Two (2) judges who exercise juvenile jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.
(11) Two (2) judges who exercise criminal jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.
(12) One (1) board certified psychologist or psychiatrist who has expertise in treating sex offenders, appointed by the governor to act as a nonvoting advisor to the committee.

(g) The chairman of the legislative council shall appoint a legislative member of the committee to serve as chair of the committee. Whenever there is a new chairman of the legislative council, the new chairman may remove the chair of the committee and appoint another chair.

(h) If a legislative member of the committee ceases to be a member of the chamber from which the member was appointed, the member also ceases to be a member of the committee.
(i) A legislative member of the committee may be removed at any time by the appointing authority who appointed the legislative member.
(j) If a vacancy exists on the committee, the appointing authority who appointed the former member whose position is vacant shall appoint an individual to fill the vacancy.
(k) The committee shall submit a final report of the results of its study to the legislative council before November 1, 2006. The report must be in an electronic format under IC 5-14-6.
(l) The Indiana criminal justice institute shall provide staff support to the committee.

(m) Each member of the committee is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative and lay members, respectively, of interim study committees established by the legislative council.

(n) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including the final report.
(o) Except as otherwise specifically provided by this act, the committee shall operate under the rules of the legislative council. All funds necessary to carry out this act shall be paid from appropriations to the legislative council and legislative services agency.

(p) This SECTION expires December 31, 2006.
ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS

Engrossed House Bill 1259–1

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 1259–1.

WHETSTONE, Chair

Report adopted.

HOUSEx MOTlON

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 1259–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 433: yeas 93, nays 0. Report adopted.

Engrossed Senate Bill 112–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration Senate 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 Senate Bill 112–1.

WHETSTONE, Chair

Report adopted.

HOUSEx MOTlON

Mr. Speaker: I move Senate 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 Senate Bill 112–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 436: yeas 97, nays 0. Report adopted.

Engrossed Senate Bill 193–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration Senate 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 Senate Bill 193–1.

WHETSTONE, Chair

Report adopted.

HOUSEx MOTlON

Mr. Speaker: I move Senate 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 Senate Bill 193–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 436: yeas 97, nays 0. Report adopted.

Engrossed Senate Bill 253–1

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration Senate 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 7 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 253–1.

WHETSTONE, Chair

Report adopted.

HOUSEx MOTlON

Mr. Speaker: I move Senate 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 7 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 253–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 434: yeas 97, nays 0. Report adopted.
March 13, 2006

House 1005

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 Senate Bill 253–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 437: yeas 97, nays 0. Report adopted.

Engrossed Senate Bill 258–1

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 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 258–1.

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 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 258–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 438: yeas 96, nays 1. Report adopted.

Engrossed House Bill 1010–2

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 1010–2.

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 1010–2.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 440: yeas 89, nays 8. Report adopted.

Engrossed House Bill 1025–1

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 266–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Representative Murphy was excused from voting, pursuant to House Rule 46. Roll Call 439: yeas 94, nays 0. Report adopted.

Engrossed Senate Bill 321–1

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 6 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 321–1.

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 6 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 321–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 441: yeas 96, nays 1. Report adopted.
The conference committee report was reread. Roll Call 442: yeas 96, nays 0. Report adopted.

**Engrossed House Bill 1102–1**

**COMMITTEE REPORT**

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members’ desks for 7 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1102–1.

WHETSTONE, Chair

Report adopted.

**HOUSE MOTION**

Mr. Speaker: I move House Rule 162.2 be suspended so that the following conference committee report may be 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 7 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 6–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 443: yeas 72, nays 25. Report adopted.

**Engrossed House Bill 1353–1**

**COMMITTEE REPORT**

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members’ desks for 8 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed House Bill 1353–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 444: yeas 96, nays 0. Report adopted.

**Engrossed Senate Bill 75–1**

**COMMITTEE REPORT**

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members’ desks for 4 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 75–1.

WHETSTONE, Chair

Motion prevailed.

The conference committee report was reread. Roll Call 445: yeas 96, nays 0. Report adopted.

**Engrossed Senate Bill 77–1**

**COMMITTEE REPORT**

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.2 and recommends that Rule 162.2 be suspended so that the following conference committee report may be laid over on the members’ desks for 5 hours, all so that the following conference committee report may be eligible to be placed before the House for action: Engrossed Senate Bill 6–1.

WHETSTONE, Chair

Report adopted.
The time served by a member in military service for the duration of 1991, and who is employed at a state institution of higher education.

However, not more than six (6) years of military service credit may be granted under this subsection.

The time served by a member in military service for the length of active service in the hostilities and the necessary demobilization is not subject to the one-seventh rule set forth in section 7 of this chapter. However, not more than six (6) years of military service credit may be granted under this subsection.

The board shall extend the eighteen (18) month deadline contained in subsection (b)(2), (c)(2), or (d)(2) if the board determines that an illness, an injury, or a disability related to the member's military service prevented the member from returning to active teaching service or to a teacher education program not later than eighteen (18) months after the member's discharge from military service. However, the board may not extend the deadline beyond thirty (30) months after the member's discharge.

If a member retires and the board subsequently determines that the member is entitled to additional service credit due to the extension of a deadline under subsection (e), the board shall recompute the member's benefit. However, the additional service credit may be used only in the computation of benefits to be paid after the date of the board's determination, and the member is not entitled to a recomputation of benefits received before the date of the board's determination.

Notwithstanding any provision of this section, a member is entitled to military service credit and benefits in the amount and to the extent required by the federal Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.), including all later amendments.

Subject to this section, an active member may purchase not more than two (2) years of service credit for the member's service on active duty in the armed services if the member meets the following conditions:

(1) The member has at least one (1) year of credited service in the fund.
(2) The member serves on active duty in the armed services of the United States for at least six (6) months.
(3) The member receives an honorable discharge from the armed services.
(4) Before the member retires, the member makes contributions to the fund as follows:
   (A) Contributions that are equal to the product of:
      (i) the member's salary at the time the member actually makes a contribution for the service credit;
      (ii) a rate, determined by the actuary of the fund, that is based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased; and
      (iii) the number of years of service credit the member intends to purchase.
   (B) Contributions for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

However, a member is entitled to purchase service credit under this subsection only to the extent that service credit is not granted for that time under another provision of this section. At least ten (10) years of service in Indiana is required before a member may receive a benefit based on service credits purchased under this section. A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance or receives a monthly
allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(i) The following apply to the purchase of service credit under subsection (h):
   (1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.
   (2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.
   (3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

(j) This subsection applies to a member who retires after June 30, 2006. A member may not receive credit under this section for service which the member receives service credit under the terms of a military or another governmental retirement plan.

Delete pages 3 through 6.

(Reference is to ESB 58 as printed February 17, 2006.)

WHETSTONE, Chair
PELATH, R.M.M.
BUELL, 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 192 because it conflicts with HEA 1040-2006 without properly recognizing the existence of HEA 1040-2006, has had Engrossed Senate Bill 192 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 192 be corrected as follows:

Page 1, line 1, delete "P.L.10-2005," and insert "HEA 1040-2006, SECTION 528."

Page 1, line 2, delete "SECTION 4."

Page 3, line 35, delete "the the" and insert "the."

(Reference is to ESB 192 as printed February 24, 2006.)

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

Report adopted.
Subject to subsection (f), in the case of a rule finally adopted, by the agency, the final rule, as published in the Indiana Register, and the Indiana Administrative Code must include the name, address, telephone number, and electronic mail address of the coordinator.

(f) This subsection applies to a rule adopted by the department of environmental management or any of the boards (as defined in IC 13-11-2-18) under IC 13-14-9. Subject to subsection (g), the department shall include in the notice provided under IC 13-14-9-3 or in the findings published under IC 13-14-9-8(b)(1), whichever applies, and in the publication of the final rule in the Indiana Register: and the Indiana Administrative Code:

(1) a statement of the resources available to regulated entities through the technical and compliance assistance program established under IC 13-28-3;
(2) the name, address, telephone number, and electronic mail address of the ombudsman designated under IC 13-28-3-2;
(3) if applicable, a statement of:
   (A) the resources available to small businesses through the small business stationary source technical assistance program established under IC 13-28-5 and
   (B) the name, address, telephone number, and electronic mail address of the ombudsman for small business designated under IC 13-28-5-2(3); and
(4) the information required by subsection (e).

The coordinator assigned to the rule under subsection (e) shall work with the ombudsman described in subdivision (2) and the office of voluntary compliance established by IC 13-28-1-1 to coordinate the provision of services required under subsection (h) and IC 13-28-3. If applicable, the coordinator assigned to the rule under subsection (e) shall work with the ombudsman referred to in subdivision (3)(B) to coordinate the provision of services required under subsection (h) and IC 13-28-5.

(g) If the notice provided under IC 13-14-9-3 is not published as allowed by IC 13-14-9-7, the department of environmental management shall publish in the notice provided under IC 13-14-9-4 the information that subsection (f) would otherwise require to be published in the notice under IC 13-14-9-3. If neither the notice under IC 13-14-9-3 nor the notice under IC 13-14-9-4 is published as allowed by IC 13-14-9-8, the department of environmental management shall publish in the commissioner's written findings under IC 13-14-9-8(b) the information that subsection (f) would otherwise require to be published in the notice under IC 13-14-9-3.

(h) The coordinator assigned to a rule under subsection (e) shall serve as a liaison between the agency and any small business subject to regulation under the rule. The coordinator shall provide guidance to small businesses affected by the rule on the following:

(1) Any requirements imposed by the rule, including any reporting, record keeping, or accounting requirements.
(2) How the agency determines or measures compliance with the rule, including any deadlines for action by regulated entities.
(3) Any penalties, sanctions, or fines imposed for noncompliance with the rule.
(4) Any other concerns of small businesses with respect to the rule, including the agency's application or enforcement of the rule in particular situations. However, in the case of a rule adopted under IC 13-14-9, the coordinator assigned to the rule may refer a small business with concerns about the application or enforcement of the rule in a particular situation to the ombudsman designated under IC 13-28-3-2 or, if applicable, under IC 13-28-5-2(3).

(i) The coordinator assigned to a rule under subsection (e) shall provide guidance under this section in response to questions and concerns expressed by small businesses affected by the rule. The coordinator may also issue general guidelines or informational pamphlets to assist small businesses in complying with the rule. Any guidelines or informational pamphlets issued under this subsection shall be made available:

(1) for public inspection and copying at the offices of the agency under IC 5-14-3; and
(2) electronically through electronic gateway access.

(j) The coordinator assigned to a rule under subsection (e) shall keep a record of all comments, questions, and complaints received from small businesses with respect to the rule. The coordinator shall deliver the record, along with any accompanying documents submitted by small businesses, to the director:

(1) not later than ten (10) days after the date on which the rule is filed stamped by the secretary of state submitted to the publisher under section 35 of this chapter; and
(2) before July 15 of each year during which the rule remains in effect.

The coordinator and the director shall keep confidential any information concerning a small business to the extent that the information is exempt from public disclosure under IC 5-14-3-4.

(k) Not later than November 1 of each year, the director shall:

(1) compile the records received from all of the agency's coordinators under subsection (j);
(2) prepare a report that sets forth:
   (A) the number of comments, complaints, and questions received by the agency from small businesses during the most recent state fiscal year, categorized by the subject matter of the rules involved;
   (B) the number of complaints or questions reported under clause (A) that were resolved to the satisfaction of the agency and the small businesses involved;
   (C) the total number of staff serving as coordinators under this section during the most recent state fiscal year;
   (D) the agency's costs in complying with this section during the most recent state fiscal year; and
   (E) the projected budget required by the agency to comply with this section during the current state fiscal year; and
(3) deliver the report to the legislative council in an electronic format under IC 5-14-6 and to the Indiana economic development corporation established by IC 5-28-3."

Delete pages 9 through 10.

Page 11, delete lines 1 through 11.

(Reference is to ESB 379 as printed February 14, 2006.)

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

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 1076 because it conflicts with HEA 1134-2006 without properly recognizing the existence of HEA 1134-2006, has had Engrossed House Bill 1076 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1076 be corrected as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 20-26-5-4, AS AMENDED BY HEA 1134-2006, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. In carrying out the school purposes of a school corporation, the governing body acting on the school corporation's behalf has the following specific powers:

(1) In the name of the school corporation, to sue and be sued and to enter into contracts in matters permitted by applicable law.
(2) To take charge of, manage, and conduct the educational affairs of the school corporation and to establish, locate, and provide the necessary schools, school libraries, other libraries where permitted by law, other buildings, facilities, property, and equipment.
(3) To appropriate from the school corporation's general fund an amount, not to exceed the greater of three thousand dollars ($3,000) per budget year or one dollar ($1) per pupil, not to exceed twelve thousand five hundred dollars ($12,500), based on the school corporation's previous year's ADM, to promote the best interests of the school corporation through:
   (A) the purchase of meals, decorations, memorabilia, or awards;
   (B) provision for expenses incurred in interviewing job applicants; or
   (C) developing relations with other governmental units.
The governing body may, at the governing body's option, use the procedure specified in IC 36-1-11-10 in leasing property under this subdivision.

(8) To:
(A) Employ, contract for, and discharge superintendents, supervisors, principals, teachers, librarians, athletic coaches (whether or not they are otherwise employed by the school corporation and whether or not they are licensed under IC 20-28-5), business managers, superintendents of buildings and grounds, janitors, engineers, architects, physicians, dentists, nurses, accountants, teacher aides performing noninstructional duties, educational and other professional consultants, data processing and computer service for school purposes, including the making of schedules, the keeping and analyzing of grades and other student data, the keeping and preparing of warrants, payroll, and similar data where approved by the state board of accounts as provided below, and other personnel or services as the governing body considers necessary for school purposes.
(B) Fix and pay the salaries and compensation of persons and services described in this subdivision.
(C) Classify persons or services described in this subdivision and to adopt schedules of salaries or compensation.
(D) Determine the number of the persons or the amount of the services employed or contracted for as provided in this subdivision.
(E) Determine the nature and extent of the duties of the persons described in this subdivision.

The compensation, terms of employment, and discharge of teachers are, however, subject to and governed by the laws relating to employment, contracting, compensation, and discharge of teachers. The compensation, terms of employment, and discharge of bus drivers are subject to and governed by the laws relating to employment, contracting, compensation, and discharge of bus drivers. The forms and procedures relating to the use of computer and data processing equipment in handling the financial affairs of the school corporation must be submitted to the state board of accounts for approval so that the services are used by the school corporation when the governing body determines that it is in the best interest of the school corporation while at the same time providing reasonable accountability for the funds expended.

(9) Notwithstanding the appropriation limitation in subdivision (3), when the governing body by resolution considers a trip by an employee of the school corporation or by a member of the governing body to be in the interest of the school corporation, including attending meetings, conferences, or examining equipment, buildings, and installation in other areas, to permit the employee to be absent in connection with the trip without any loss in pay and to reimburse the employee or the member the employee's or member's reasonable lodging and meal expenses and necessary transportation expenses. To pay teaching personnel for time spent in sponsoring and working with school related trips or activities.

(10) To transport children to and from school, when in the opinion of the governing body the transportation is necessary, including considerations for the safety of the children and without regard to the distance the children live from the school. The transportation must be otherwise in accordance with applicable law.

(11) To provide a lunch program for a part or all of the students attending the schools of the school corporation, including the establishment of kitchens, kitchen facilities, kitchen equipment, lunch rooms, the hiring of the necessary personnel to operate the lunch program, and the purchase of material and supplies for the lunch program, charging students for the operational costs of the lunch program, fixing the price per meal or per food item. To operate the lunch program as an extracurricular activity, subject to the supervision of the governing body. To participate in a surplus commodity or lunch aid program.

(12) To purchase textbooks, to furnish textbooks without cost or to rent textbooks to students, to participate in a textbook aid program, all in accordance with applicable law.
(13) To accept students transferred from other school corporations and to transfer students to other school corporations in accordance with applicable law.

(14) To make budgets, to appropriate funds, and to disburse the money of the school corporation in accordance with applicable law. To borrow money against current tax collections and otherwise to borrow money, in accordance with IC 20-48-1.

(15) To purchase insurance or to establish and maintain a program of self-insurance relating to the liability of the school corporation or the school corporation's employees in connection with motor vehicles or property and for additional coverage to the extent permitted and in accordance with IC 34-13-3-20. To purchase additional insurance or to establish and maintain a program of self-insurance protecting the school corporation and members of the governing body, employees, contractors, or agents of the school corporation from liability, risk, accident, or loss related to school property, school contract, school or school related activity, including the purchase of insurance or the establishment and maintenance of a self-insurance program protecting persons described in this subdivision against false imprisonment, false arrest, libel, or slander for acts committed in the course of the persons' employment, protecting the school corporation for fire and extended coverage and other casualty risks to the extent of replacement cost, loss of use, and other insurable risks relating to property owned, leased, or held by the school corporation. To:

(A) participate in a state employee health plan under IC 5-10-8-6.6;

(B) purchase insurance; or

(C) establish and maintain a program of self-insurance;

to benefit school corporation employees, including accident, sickness, health, or dental coverage, provided that a plan of self-insurance must include an aggregate stop-loss provision.

(16) To make all applications, to enter into all contracts, and to sign all documents necessary for the receipt of aid, money, or property from the state, the federal government, or from any other source.

(17) To defend a member of the governing body or any employee of the school corporation in any suit arising out of the performance of the member's or employee's duties for or employment with, the school corporation, if the governing body by resolution determined that the action was taken in good faith. To save any member or employee harmless from any liability, cost, or damage in connection with the performance, including the payment of legal fees, except where the liability, cost, or damage is predicated on or arises out of the bad faith of the member or employee, or is a claim or judgment based on the member's or employee's malfeasance in office or employment.

(18) To prepare, make, enforce, amend, or repeal rules, regulations, and procedures:

(A) for the government and management of the schools, property, facilities, and activities of the school corporation, the school corporation's agents, employees, and pupils and for the operation of the governing body; and

(B) that may be designated by an appropriate title such as "policy handbook", "bylaws", or "rules and regulations".

(19) To ratify and approve any action taken by a member of the governing body, an officer of the governing body, or an employee of the school corporation after the action is taken, if the action could have been approved in advance, and in connection with the action to pay the expense or compensation permitted under IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 20-40-12, and IC 20-48-1 or any other law.

(20) To exercise any other power and make any expenditure in carrying out the governing body's general powers and purposes provided in this chapter or in carrying out the powers delineated in this section which is reasonable from a business or educational standpoint in carrying out school purposes of the school corporation, including the acquisition of property or the employment or contracting for services, even though the power or expenditure is not specifically set out in this chapter. The specific powers set out in this section do not limit the general grant of powers provided in this chapter except where a limitation is set out in IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 20-40-12, and IC 20-48-1 by specific language or by reference to other law.

Delete pages 2 through 6.

Page 7, delete lines 1 through 13.

(Reference is to EHB 1076 as printed February 10, 2006.)

WHETSTONE, Chair

PELATH, R.M.M.

FRIEND, 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 1128 because it conflicts with SEA 145-2006 without properly recognizing the existence of SEA 145-2006, has had Engrossed House Bill 1128 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1128 be corrected as follows:

Page 1, line 1, before "IS" insert ", AS AMENDED BY SEA 145-2006, SECTION 5."

Page 2, line 17, reset in roman "If the court grants probationary driving".

Page 2, reset in roman lines 18 through 21.

Page 2, line 22, reset in roman "under IC 9-30-8.".

Page 3, line 37, before "IS" insert ", AS AMENDED BY SEA 145-2006, SECTION 10.".

Page 3, line 38, reset in roman "(a)".

Page 3, line 41, reset in roman "except as provided in subsection (b)."

Page 4, reset in roman lines 4 through 6.

(Reference is to EHB 1128 as reprinted March 1, 2006.)

WHETSTONE, Chair

PELATH, R.M.M.

DUNCAN, 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 1158 because it conflicts with HEA 1123-2006 and HEA 1040-2006 without properly recognizing the existence of HEA 1123-2006 and HEA 1040-2006, has had Engrossed House Bill 1158 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1158 be corrected as follows:

Page 8, line 14, delete "P.L.176-2005," and insert "HEA 1123-2006, SECTION 3.".

Page 8, line 15, delete "SECTION 16.".

Page 9, line 33, delete "fund" and insert "account".

Page 9, line 34, delete "IC 16-19-13-6" and insert "IC 4-23-25-11(i)".

Page 14, line 19, after "IC 33-37-7-11" insert ", AS AMENDED BY HEA 1040-2006, SECTION 512."

Page 14, line 27, delete "3 or".

(Reference is to EHB 1158 as reprinted March 2, 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 1347 because it conflicts with HEA 1093-2006 without properly recognizing the existence of HEA 1093-2006, has had Engrossed House Bill 1347 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1347 be corrected as follows:

Page 4, line 38, delete "ADDED BY P.L.1-2005, SECTION".

Page 4, line 39, delete "4," and insert "AMENDED BY HEA
1093-2006, SECTION 1.,
Page 5, line 37, after "including" insert:
(A).".
Page 5, line 39, delete ",," and insert ";";
and
(B) the number of incidents reported under IC 20-33-9."
(Reference is to EHB 1347 as printed February 17, 2006.)

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

Report adopted.

CONFEREES AND ADVISORS APPOINTED
The Speaker announced the following changes in appointment of Representatives as conferees and advisors:
ESB 303 Conferees: T. Harris replacing Oxley

ENROLLED ACTS SIGNED
The Speaker announced that he had signed House Enrolled Acts 1101, 1123, 1138, 1239, 1281, 1285, 1306, and 1307 on March 13.

The Speaker announced that Lieutenant Governor Skillman had signed House Enrolled Acts 1106 and 1232 on March 13.

CONFERENCE COMMITTEE REPORTS
CONFERENCE COMMITTEE REPORT
ESB 41–1; filed March 13, 2006, at 10:23 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 41 respectfully reports that said two committee have conferred and agreed as follows to wit:

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 1-1-3.5-5, AS AMENDED BY P.L.127-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) The governor shall forward a copy of the executive order issued under section 3 of this chapter to:
(1) the director of the Indiana state library;
(2) the election division; and
(3) the Indiana Register.

(b) The director of the Indiana state library, or an employee of the Indiana state library designated by the director to supervise a state data center established under IC 4-23-7.1, shall notify each state agency using population counts as a basis for the distribution of funds or services of the effective date of the tabulation of population or corrected population count.

(c) The agencies that the director of the Indiana state library must notify under subsection (b) include the following:

(1) The auditor of state, for distribution of money from the following:
(A) The cigarette tax fund in accordance with IC 6-7-1-30.1.
(B) Excise tax revenue allocated under IC 7.1-4-7-8.
(C) The local road and street account in accordance with IC 8-14-2.4.
(D) The repayment of loans from the Indiana University permanent endowment funds under IC 21-7-4.

(2) The board of trustees of Ivy Tech Community College of Indiana, for the board's division of Indiana into service regions under IC 20-12-61-9.

(3) The lieutenant governor, for the distribution of money from the rural development fund under IC 4-4-9.

(4) The division of disability and rehabilitative services, for establishing priorities for community residential facilities under IC 12-11-1.1 and IC 12-28-4-12.

(5) The department of state revenue, for distribution of money from the motor vehicle highway account fund under IC 8-14-1-3.

(6) The Indiana economic development corporation, for the evaluation of enterprise zone applications under IC 5-28-15.

(7) The alcohol and tobacco commission, for the issuance of permits under IC 7.1.

(8) The Indiana library and historical board, for distribution of money to eligible public library districts under IC 4-23-7-1.29.

(9) The state board of accounts, for calculating the state share of salaries paid under IC 33-38-5, IC 33-39-6, and IC 33-41–2.

(10) (A) The division of family and children, for the implementation of the comprehensive plan prepared by the developmental disabilities task force established by P.L.245-1997, SECTION 1.

(11) (A) Community residential and family support services.

(B) Services for aging families caring for their children who are mentally retarded and developmentally disabled adults.

(C) Services for families in emergency or crisis situations.

(D) Services needed to move children and adults from nursing homes and state hospitals to the community.

(3) Study and make recommendations for the state to use state employees or contract with a private entity to manage and implement home and community based services waivers under 42 U.S.C. 1396n(c).

(4) Study and make recommendations regarding state funding needed to provide supplemental room and board costs for individuals who otherwise qualify for residential services under the home and community based services waivers.

(5) Monitor and recommend changes for improvements in the implementation of home and community based services waivers managed by the state or by a private entity.

(6) Review and make recommendations regarding the implementation of the comprehensive plan prepared by the developmental disabilities task force established by P.L.245-1997, SECTION 1.

(7) Review and make recommendations regarding the development by the division of disability and rehabilitative services of a statewide plan to address quality assurance in community based services.

(8) Annually review the infants and toddlers with disabilities program established under IC 12-17-15.

SECTION 3. IC 4-1-8-1, AS AMENDED BY HEA 1040-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) No individual may be compelled by any state agency, board, commission, department, bureau, or other entity of state government (referred to as "state agency" in this chapter) to provide the individual's Social Security number to the state agency against the individual's will, absent federal requirements to the contrary. However, the provisions of this chapter do not apply to the following:

(1) Department of state revenue.

(2) Department of workforce development.

(3) The programs administered by:
(A) the division of family and children;
(B) the division of mental health and addiction;
(C) the division of disability and rehabilitative services;
(D) the division of aging; and
(E) the office of Medicaid policy and planning; of the office of the secretary of family and social services.

(4) Auditor of state.

(5) State personnel department.

(6) Secretary of state, with respect to the registration of broker-dealers, agents, and investment advisors.

(7) The legislative ethics commission, with respect to the registration of lobbyists.

(8) Indiana department of administration, with respect to bidders on contracts.
(9) Indiana department of transportation, with respect to bidders on contracts.
(10) Indiana professional licensing agency.
(11) Department of insurance, with respect to licensing of insurance producers.
(12) A pension fund administered by the board of trustees of the public employees' retirement fund.
(13) The Indiana state teachers' retirement fund.
(14) The state police benefit system.
(15) The alcohol and tobacco commission.

(b) The bureau of motor vehicles may, notwithstanding this chapter, require the following:
(1) That an individual include the individual's Social Security number in an application for a riverboat owner's license, supplier's license, or occupational license.
(2) That an individual include the individual's Social Security number on an application for registration.
(3) That a corporation, limited liability company, firm, partnership, or other business entity include its federal tax identification number on an application for registration.

c) The Indiana department of administration, the Indiana department of transportation, and the Indiana professional licensing agency may require an employer to provide its federal employer identification number.

d) The department of correction may require a committed offender to provide the offender's Social Security number for purposes of matching data with the Social Security Administration to determine benefit eligibility.

e) The Indiana gaming commission may, notwithstanding this chapter, require the following:
(1) That an individual include the individual's Social Security number in any application for a riverboat owner's license, supplier's license, or occupational license.
(2) That a sole proprietorship, a partnership, an association, a fiduciary, a corporation, a limited liability company, or any other business entity include its federal tax identification number on an application for a riverboat owner's license or supplier's license.

(f) Notwithstanding this chapter, the department of education established by IC 20-19-3-1 may require an individual who applies to the department for a license or an endorsement to provide the individual's Social Security number. The Social Security number may be used by the department only for conducting a background investigation, if the department is authorized by statute to conduct a background investigation of an individual for issuance of the license or endorsement.

SECTION 4. IC 4-15-2-3.8, AS AMENDED BY HEA 1040-2006, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3.8. "State service" means public service by:
(1) employees and officers, including the incumbent directors, of the county offices of family and children; and
(2) employees and officers, except members of boards and commissions or individuals hired for or appointed to, after June 30, 1982, positions as appointing authorities, deputies, assistants reporting to appointing authorities, or supervisors of major units within state agencies, irrespective of the title carried by those positions, of the division of disability services and rehabilitative services, division of aging, Fort Wayne State Developmental Center, Muscatatuck State Developmental Center, division of mental health and addiction, Larue D. Carter Memorial Hospital, Evansville State Psychiatric Treatment Center for Children, Evansville State Hospital, Logansport State Hospital, Madison State Hospital, Richmond State Hospital, state department of health, Indiana School for the Blind and Visually Impaired, Indiana School for the Deaf, Indiana Veterans' Home, Indiana Soldiers' and Sailors' Children's Home, Silvercrest Children's Development Center, department of correction, Westville Correctional Facility, Plainfield Juvenile Correctional Facility, Putnamville Correctional Facility, Indianapolis Juvenile Correctional Facility, Indiana State Prison, Indiana Women's Prison, Pendleton Correctional Facility, Reception and Diagnostic Center, Rockville Correctional Facility, Youth Rehabilitation Facility, Plainfield Correctional Facility, department of homeland security (excluding a county emergency management organization and any other local emergency management organization created under IC 10-14-3), civil rights commission, criminal justice planning agency, department of workforce development, Indiana historical bureau, Indiana state library, division of family and children, Indiana state board of animal health, Federal Surplus Property Warehouse, Indiana education employment relations board, department of labor, Indiana protection and advocacy services commission, commission on public records, Indiana horse racing commission, and state personnel department.

SECTION 5. IC 4-15-2-19.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 19.5. (a) As used in this section, "individual with a disability" means an individual:
(1) with a physical or mental impairment that substantially limits one (1) or more of the major life activities of the individual; or
(2) who:
(A) has a record of; or
(B) is regarded as;
having an impairment described in subdivision (1).

(b) Notwithstanding the provisions of this chapter, the director may waive minimum qualifications and an examination for an approved individual upon certification by an Indiana rehabilitation facility or the rehabilitation services bureau of the division of disability services and rehabilitative services that the individual:
(1) is an individual with a disability; and
(2) possesses the required knowledge, skill, and ability to perform the essential functions of a position classification with or without reasonable accommodation or with special accommodation for supported employment.

(c) The names of applicants with a disability qualified under subsection (b) shall be certified with or in addition to the names certified on the eligibility list under section 19 of this chapter.

SECTION 6. IC 4-23-20-3, AS AMENDED BY P.L.4-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The committee consists of at least six (6) members appointed by the governor and must include representatives of the following:
(1) The Indiana economic development corporation.
(2) The department of workforce development.
(3) The division of disability services and rehabilitative services.
(4) The commission on vocational and technical education of the department of workforce development.
(5) The state human resource investment council.
(6) The department of education.

SECTION 7. IC 5-1-16-1, AS AMENDED BY P.L.235-2005, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. As used in this chapter:
"Authority" refers to the Indiana health and educational facility financing authority.
"Bonds" includes bonds, refunding bonds, notes, interim certificates, bond anticipation notes, and other evidences of indebtedness of the authority, issued under this chapter.
"Building" or "buildings" or similar words mean any building or part of a building or addition to a building for health care purposes. The term includes the site for the building (if a site is to be acquired), equipment, heating facilities, sewage disposal facilities, landscaping, walks, drives, parking facilities, and other structures, facilities, appurtenances, materials, and supplies that may be considered necessary to render a building suitable for use and occupancy for health care purposes.
"Cost" includes the following:
(1) The cost and the incidental and related costs of the acquisition, repair, restoration, reconditioning, refinancing, or installation of health facility property.
(2) The cost of any property interest in health facility property, including an option to purchase a leasehold interest.
(3) The cost of constructing health facility property, or an addition to health facility property, acquiring health facility property, or remodeling health facility property.
(4) The cost of architectural, engineering, legal, trustee, underwriting, and related services; the cost of the preparation of plans, specifications, studies, surveys, and estimates of cost and of revenue; and all other expenses necessary or incident to planning, providing, or determining the need for or the feasibility and practicability of health facility property.

(5) The cost of financing charges, including premiums or prepayment penalties and interest accrued during the construction of health facility property or before the acquisition and installation or refinancing of such health facility property for up to two (2) years after such construction, acquisition, and installation or refinancing and startup costs related to health facility property for up to two (2) years after such construction, acquisition, and installation or refinancing.

(6) The costs paid or incurred in connection with the financing of health facility property, including out-of-pocket expenses, the cost of any policy of insurance; the cost of printing, engraving, and reproduction services; and the cost of the initial or acceptance fee of any trustee or paying agent.

(7) The costs of the authority, incurred in connection with providing health facility property, including reasonable sums to reimburse the authority for time spent by its agents or employees in providing and financing health facility property.

(8) The cost paid or incurred for the administration of any program for the purchase or lease of or the making of loans for health facility property, by the authority and any program for the sale or lease of or making of loans for health facility property to any participating provider.

"County" means any county in the state that owns and operates a county hospital.

"Health facility property" means any tangible or intangible property or asset owned or used by a participating provider and which:

(1) is located in Indiana or outside Indiana;

(2) contracts with the authority for the financing or refinancing of, or the lease or other acquisition of, health facility property that is located:

(A) in Indiana; or

(B) outside Indiana, if the financing, refinancing, lease, or other acquisition also includes a substantial component, as determined by the authority, for the benefit of a health facility or facilities located in Indiana;

(3) is:

(A) licensed under IC 12-25, IC 16-21, IC 16-28, or corresponding laws of the state in which the property is located;

(B) a regional blood center;

(C) a community mental health center or community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-38 and IC 12-7-2-39 or corresponding provisions of laws of the state in which the property is located);

(D) an entity that:

(i) contracts with the division of disability services and rehabilitative services or the division of mental health and addiction to provide the program described in IC 12-11-1.1-1(e) or IC 12-22-2; or

(ii) provides a similar program under the laws of the state in which the entity is located;

(E) a vocational rehabilitation center established under IC 12-12-1.4.1(a)(1) or corresponding provisions of the laws of the state in which the property is located;

(F) the owner or operator of a facility that is utilized, directly or indirectly, to provide health care, habilitation, rehabilitation, therapeutic services, medical research, the training or teaching of health care personnel, or any related supporting services, or of a residential facility for the physically, mentally, or emotionally disabled, physically or mentally ill, or the elderly;

(G) a licensed child caring institution providing residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the property is located;

(H) an integrated health care system between or among providers, a health care purchasing alliance, a health insurer or third party administrator that is a participant in an integrated health care system, a health maintenance or preferred provider organization, or a foundation that supports a health care provider; or

(I) an individual, a business entity, or a governmental entity that owns an equity or membership interest in any of the organizations described in clauses (A) through (H); and

(4) in the case of a person, corporation, municipal corporation, political subdivision, or other entity located outside Indiana, is owned or controlled by, under common control with, affiliated with, or part of an obligated group that includes an entity that provides one (1) or more of the following services or facilities in Indiana:

(A) A facility that provides:

(i) health care;

(ii) habilitation, rehabilitation, or therapeutic services;

(iii) medical research;

(iv) the training or teaching of health care personnel; or

(v) any related supporting services.

(B) to provide a residential facility for:

(i) the physically, mentally, or emotionally disabled;

(ii) the physically or mentally ill; or

(iii) the elderly;

(C) as a child caring institution and provides residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the facility or building is located.

"Net revenues" means the revenues of a hospital remaining after provision for proper and reasonable expenses of operation, repair, replacement, and maintenance of the hospital.

"Participating provider" means a person, corporation, municipal corporation, political subdivision, or other entity, public or private, which:

(1) is located in Indiana or outside Indiana;

(2) contracts with the authority for the financing or refinancing of, or the lease or other acquisition of, health facility property that is located:

(A) in Indiana; or

(B) outside Indiana, if the financing, refinancing, lease, or other acquisition also includes a substantial component, as determined by the authority, for the benefit of a health facility or facilities located in Indiana;

(3) is:

(A) licensed under IC 12-25, IC 16-21, IC 16-28, or corresponding laws of the state in which the property is located;

(B) a regional blood center;

(C) a community mental health center or community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-38 and IC 12-7-2-39 or corresponding provisions of laws of the state in which the property is located);

(D) an entity that:

(i) contracts with the division of disability services and rehabilitative services or the division of mental health and addiction to provide the program described in IC 12-11-1.1-1(e) or IC 12-22-2; or

(ii) provides a similar program under the laws of the state in which the entity is located;

(E) a vocational rehabilitation center established under IC 12-12-1.4.1(a)(1) or corresponding provisions of the laws of the state in which the property is located;

(F) the owner or operator of a facility that is utilized, directly or indirectly, to provide health care, habilitation, rehabilitation, therapeutic services, medical research, the training or teaching of health care personnel, or any related supporting services, or of a residential facility for the physically, mentally, or emotionally disabled, physically or mentally ill, or the elderly;

(G) a licensed child caring institution providing residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the property is located;

(H) an integrated health care system between or among providers, a health care purchasing alliance, a health insurer or third party administrator that is a participant in an integrated health care system, a health maintenance or preferred provider organization, or a foundation that supports a health care provider; or

(I) an individual, a business entity, or a governmental entity that owns an equity or membership interest in any of the organizations described in clauses (A) through (H); and

(4) in the case of a person, corporation, municipal corporation, political subdivision, or other entity located outside Indiana, is owned or controlled by, under common control with, affiliated with, or part of an obligated group that includes an entity that provides one (1) or more of the following services or facilities in Indiana:

(A) A facility that provides:

(i) health care;

(ii) habilitation, rehabilitation, or therapeutic services;

(iii) medical research;

(iv) the training or teaching of health care personnel; or

(v) any related supporting services.

(B) to provide a residential facility for:

(i) the physically, mentally, or emotionally disabled;

(ii) the physically or mentally ill; or

(iii) the elderly;

(C) as a child caring institution and provides residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the facility or building is located.

"Regional blood center" means a nonprofit corporation or
corporation created under 36 U.S.C. 1 that:

(1) is:
   (A) accredited by the American Association of Blood Banks; or
   (B) registered or licensed by the Food and Drug Administration of the Department of Health and Human Services; and

(2) owns and operates a health facility that is primarily engaged in:
   (A) drawing, testing, processing, and storing human blood and providing blood units or components to hospitals; or
   (B) harvesting, testing, typing, processing, and storing human body tissue and providing this tissue to hospitals.

SECTION 8. IC 5-22-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. As used in this chapter, "bureau" refers to the rehabilitation services bureau of the division of disability services and rehabilitative services established under IC 12-12-1-1.

SECTION 9. IC 6-1.1-12-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. (a) Except as provided in section 11 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 and 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 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, or the division of disability services 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 the individual is to pay property taxes on the real property, mobile home, or manufactured home.

SECTION 10. IC 11-13-1-8, AS AMENDED BY P.L.1-2005, SECTION 125, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) As used in this section, "board" refers to the board of directors of the judicial conference of Indiana established by IC 33-38-9-3.

(b) The board shall adopt rules consistent with this chapter, prescribing minimum standards concerning:
   (1) educational and occupational qualifications for employment as a probation officer;
   (2) compensation of probation officers;
   (3) protection of probation records and disclosure of information contained in those records; and
   (4) presentence investigation reports.

(c) The conference shall prepare a written examination to be used in establishing lists of persons eligible for appointment as probation officers. The conference shall prescribe the qualifications for entrance to the examination and establish a minimum passing score and rules for the administration of the examination after obtaining recommendations on these matters from the probation standards and practices advisory committee. The examination must be offered at least once every other month.

(d) The conference shall, by its rules, establish an effective date for the minimum standards and written examination for probation officers.

(e) The conference shall provide probation departments with training and technical assistance for:
   (1) the implementation and management of probation case classification; and
   (2) the development and use of workload information.

The staff of the Indiana judicial center may include a probation case management coordinator and probation case management assistant.

(f) The conference shall, in cooperation with the division of family and children and the department of education, provide probation departments with training and technical assistance relating to special education services and programs that may be available for delinquent children or children in need of services. The subjects addressed by the training and technical assistance must include the following:
   (1) Eligibility standards.
   (2) Testing requirements and procedures.
   (3) Procedures and requirements for placement in programs provided by school corporations or special education cooperatives under IC 20-35-5.
   (4) Procedures and requirements for placement in residential special education institutions or facilities under IC 20-35-6-2 and 511 IAC 7-27-12.

(g) Development and implementation of individual education programs for eligible children in:
   (A) accordance with applicable requirements of state and federal laws and rules; and
   (B) in coordination with:
      (i) individual case plans; and
      (ii) informal adjustment programs or dispositional decrees entered by courts having juvenile jurisdiction under IC 31-34 and IC 31-37.

(h) Sources of federal, state, and local funding that is or may be available to support special education programs for children for whom proceedings have been initiated under IC 31-34 and IC 31-37.

Training for probation departments may be provided jointly with training provided to child welfare caseworkers relating to the same subject matter.

(i) The conference shall, in cooperation with the division of mental health and addiction (IC 12-21) and the division of disability services and rehabilitative services (IC 12-9-1), provide probation departments with training and technical assistance concerning mental illness, addictive disorders, mental retardation, and developmental disabilities.

(j) The conference shall make recommendations to courts and probation departments concerning:
   (1) selection, training, distribution, and removal of probation officers;
   (2) methods and procedure for the administration of probation, including investigation, supervision, workloads, record keeping, and reporting; and
   (3) use of citizen volunteers and public and private agencies.

(k) The conference may delegate any of the functions described in this section to the advisory committee of the Indiana judicial center.

SECTION 11. IC 12-7-2-14.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14.7. "Ancillary services", for purposes of IC 12-10-17, IC 12-10-17.1, has the meaning set forth in IC 12-10-17-2.

SECTION 12. IC 12-7-2-18.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18.3. "Attendant care services", for purposes of IC 12-10-17, IC 12-10-17.1, has the meaning set forth in IC 12-10-17-3.

SECTION 13. IC 12-7-2-20.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20.7. "Basic services", for purposes of IC 12-10-17, IC 12-10-17.1, has the meaning set forth in IC 12-10-17-4.

SECTION 14. IC 12-7-2-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 24. "Bureau" means the following:

   (1) For purposes of IC 12-10, the bureau of aging and in-home services established by IC 12-10-1.
   (2) For purposes of IC 12-11, the bureau of developmental disabilities services established by IC 12-11-1.
   (3) For purposes of IC 12-12, the rehabilitation services bureau of the division of disability services and rehabilitative services
established by IC 12-12-1-1.
(4) For purposes of IC 12-12.5, the bureau of quality improvement services established by IC 12-12.5-1-1.
(5) For purposes of IC 12-17-2, the meaning set forth in IC 12-17-2-1.

SECTION 15. IC 12-7-2-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 69. (a) "Division", except as provided in subsection (b) and (c), refers to any of the following:
(1) Is approved by the division of disability and rehabilitative services.
(2) Is organized for the purpose of providing multiple services for persons with developmental disabilities.
(3) Is operated by one (1) of the following or any combination of the following:
(A) A city, a town, a county, or another political subdivision of Indiana.
(B) An agency of the state.
(C) An agency of the United States.
(D) A political subdivision of another state.
(E) A hospital owned or operated by a unit of government described in clauses (A) through (D).
(F) A building authority organized for the purpose of constructing facilities to be leased to units of government.
(G) A corporation incorporated under IC 23-7-1-1 (before its repeal August 1, 1991) or IC 23-17.
(H) A nonprofit corporation incorporated in another state.
(I) A university or college.
(4) Is accredited for the services provided by one (1) of the following organizations:
(A) The Commission on Accreditation of Rehabilitation Facilities (CARF), or its successor.
(B) The Council on Quality and Leadership in Supports for People with Disabilities, or its successor.
(C) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or its successor.
(D) The National Commission on Quality Assurance, or its successor.
(E) An independent national accreditation organization approved by the secretary.

SECTION 16. IC 12-7-2-64, AS AMENDED BY P.L.234-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 64. "Director" refers to the following:
(1) With respect to a particular division, the director of the division.
(2) With respect to a particular state institution, the director who has administrative control of and responsibility for the state institution.
(3) For purposes of IC 12-10-15, the term refers to the director of the division of disability, aging, and rehabilitative services.
(4) For purposes of IC 12-19-5, the term refers to the director of the department of child services established by IC 31-33-1.5-2.
(5) For purposes of IC 12-25, the term refers to the director of the division of mental health and addiction.
(6) For purposes of IC 12-26, the term:
(A) refers to the director who has administrative control of and responsibility for the appropriate state institution; and
(B) includes the director’s designee.
(7) If subdivisions (1) through (6) do not apply, the term refers to the director of any of the divisions.

SECTION 17. IC 12-7-2-69, AS AMENDED BY P.L.234-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 69. (a) "Division", except as provided in subsections (b) and (c), refers to any of the following:
(1) The division of disability and rehabilitative services established by IC 12-9-1.
(2) The division of aging established by IC 12-9-1-1.
(3) The division of family resources established by IC 12-13-1-1.
(4) The division of mental health and addiction established by IC 12-21-1-1.
(b) The term refers to the following:
(1) For purposes of the following statutes, the division of disability and rehabilitative services established by IC 12-9-1-1:
(A) IC 12-9.
(B) IC 12-12 .
(C) IC 12-12.5.
(2) For purposes of the following statutes, the division of mental health and addiction established by IC 12-21-1-1:
(A) IC 12-21.
(B) IC 12-22.
(C) IC 12-23.
(D) IC 12-25.
under IC 25-22.5.

(B) A medical officer of the United States government who is in Indiana performing the officer's official duties.

SECTION 24. IC 12-7-2-174.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 174.5. "Self-directed in-home health care", for purposes of IC 12-10-17.

IC 12-10-17.1, has the meaning set forth in IC 12-10-17.

IC 12-10-17-1.9.

SECTION 25. IC 12-7-2-184 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 184. (a) "State institution" means an institution:

1. owned or operated by the state;
2. for the observation, care, treatment, or detention of an individual; and
3. under the administrative control of a division.

(b) The term includes the following:

1. Evansville State Hospital.
2. Evansville State Psychiatric Treatment Center for Children.
3. Fort Wayne State Developmental Center.
4. Larue D. Carter Memorial Hospital.
5. Logansport State Hospital.
6. Madison State Hospital.
7. Richmond State Hospital.

SECTION 26. IC 12-8-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) The secretary and the commissioner of the state department of health shall cooperate to coordinate family and social services programs with related programs administered by the state department of health.

(b) The secretary, in cooperation with the commissioner of the state department of health, is accountable for the following:

1. Resolving administrative, jurisdictional, or policy conflicts between a division and the state department of health.
2. Formulating overall policy for family, health, and social services in Indiana.
3. Coordinating activities between the programs of the division of family and children and the maternal and child health programs of the state department of health.
4. Coordinating activities concerning long term care between the division of disability and rehabilitative services and the state department of health.
5. Developing and implementing a statewide family, health, and social services plan that includes a set of goals and priorities.

SECTION 27. IC 12-8-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. Unless otherwise provided by a statute, this chapter applies to the following:

1. The family and social services committee established by IC 12-8-3-2.
2. The following advisory councils:
   (A) The division of disability and rehabilitative services advisory council.
   (B) The division of family and children advisory council.
   (C) The division of mental health and addiction advisory council.
3. A body:
   (A) established by statute for a division; and
   (B) whose enabling statute makes this chapter applicable to the body.

SECTION 28. IC 12-8-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. The office and the division of disability and rehabilitative services shall develop a written memorandum of understanding that provides the following:

1. Program responsibilities for the provision of care and treatment for developmentally disabled and long term care recipients.
2. Responsibilities to educate and inform vendors of the proper billing procedures.
3. Responsibilities in administering the state plan.
4. Responsibilities for Medicaid fiscal and quality accountability and audits for developmentally disabled and long term care services.
5. That the division shall recommend options and services to be reimbursed under the state plan.
6. That the office and the division agree that, within the limits of 42 U.S.C. 1396 et seq., developmentally disabled individuals and long term care recipients cannot be excluded from services on the basis of diagnosis unless these services are otherwise provided and reimbursed under the state plan.
7. That the office shall seek review and comment from the division before the adoption of rules or standards that may affect the service, programs, or providers of medical assistance services for the developmentally disabled and long term care recipients.
8. That the division shall develop rate setting policies for medical assistance services for the developmentally disabled and long term care recipients.
9. That the office, with the assistance of the division, shall apply for waivers from the United States Department of Health and Human Services to fund community and home based long term care services as alternatives to institutionalization.
10. Policies to facilitate communication between the office and the division.
11. Any additional provisions that enhance communication between the office and the division or facilitate more efficient or effective delivery of developmentally disabled or long term care services.

SECTION 29. IC 12-8-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. This chapter applies only to the indicated money of the following state agencies to the extent that the money is used by the agency to obtain services from grantees agencies to carry out the program functions of the agency:

1. Money appropriated or allocated to a state agency from money received by the state under the federal Social Services Block Grant Act (42 U.S.C. 1397 et seq.).
2. The division of disability aging, and rehabilitative services except this chapter does not apply to money expended under the following:
   (A) The following statutes, unless application of this chapter is required by another subdivision of this section:
      (i) IC 12-10-6.
      (ii) IC 12-10-12.
   (B) Epilepsy services.
3. The division of family and children, for money expended under the following:
   (A) The following statutes:
      (i) IC 12-14-10.
      (ii) IC 12-14-11.
      (iii) IC 12-14-12.
   (B) The following programs:
      (i) The child development associate scholarship program.
      (ii) The dependent care program.
      (iii) Migrant day care.
      (iv) The youth services bureau.
      (v) The project safe program.
      (vi) The commodities program.
      (vii) The migrant nutrition program.
      (viii) Any emergency shelter program.
      (ix) The energy weatherization program.
      (x) Programs for individuals with developmental disabilities.
4. The state department of health, for money expended under the following statutes:
   (A) IC 16-19-10.
   (B) IC 16-38-3.
5. The group.
6. All state agencies, for any other money expended for the purchase of services if all the following apply:
   (A) The purchases are made under a contract between the state agency and the office of the secretary.
   (B) The contract includes a requirement that the office of the secretary perform the duties and exercise the powers described in this chapter.
(C) The contract is approved by the budget agency.

(7) The division of mental health and addiction.

SECTION 30. IC 12-8-14-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. Services to support families of persons with disabilities and persons with disabilities may include services available within the division of family and children, the division of disability and rehabilitative services, the division of aging, the division of mental health and addiction, the state department of health, the department of education, the department of workforce development, and the department of correction, including case management and service coordination.

SECTION 31. IC 12-9-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. The division of disability and rehabilitative services is established.

SECTION 32. IC 12-9-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The division consists of the following bureaus:

(1) Disability determination bureaus required or permitted under IC 12-9-6.

(2) The bureau of aging and in-home services established by IC 12-10-1-1.

(3) The bureau of developmental disabilities services established by IC 12-11-1-1.

(4) The bureau of quality improvement services established by IC 12-12-5-1-1.

SECTION 33. IC 12-9-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. As used in this chapter, "council" refers to the division of disability and rehabilitative services advisory council established by this chapter.

SECTION 34. IC 12-9-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. The division of disability and rehabilitative services advisory council is established.

SECTION 35. IC 12-9-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. The division shall administer money appropriated or allocated to the division by the state, including money appropriated or allocated from the following:

(1) The Office of Disability Determination (42 U.S.C. 300c et seq.).

(2) The United States Department of Agriculture (7 U.S.C. 612c et seq.).

(3) The federal Social Services Block Grant in-home services for the elderly and disabled (42 U.S.C. 1397 et seq.).

(4) The federal Randolph Sheppard Act (20 U.S.C. 107 et seq.).

(5) Medicaid waiver in-home services for the elderly and disabled (42 U.S.C. 1396 et seq.) for treatment of developmental disabilities.


(8) Money appropriated or allocated to the division to administer a program under this title.

(9) Other funding sources that are designated by the general assembly or that are available from the federal government under grants that are consistent with the duties of the division.

SECTION 36. IC 12-9-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The division shall administer the following programs:

(1) Programs established under any of the following statutes:

(A) This article.

(B) IC 12-10-1-1.

(C) IC 12-11.

(D) IC 12-12.

(E) IC 12-12-5.

(2) Programs under the following statutes, to the extent the division has responsibilities for programs under those statutes:

(A) IC 12-24.

(B) IC 12-26.

(C) IC 12-27.

(D) IC 12-28.

(E) IC 12-29.

(F) IC 12-23.

(G) IC 12-23-1-1.

(H) IC 12-23-1-2.

(3) Supported employment for a person with developmental disabilities.

(4) Epilepsy service centers program.

(5) Epilepsy clinic program.

(6) Medicaid waivers for in-home services for treatment of developmental disabilities.

SECTION 37. IC 12-9-5-5, AS ADDED BY P.L.212-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) Notwithstanding any other law:

(1) home health agencies licensed under IC 16-27-1 are approved to provide home health services; and

(2) personal services agencies licensed under IC 16-27-4 are approved to provide personal services;

under any federal waiver granted to the state under 42 U.S.C. 1315 or 42 U.S.C. 1396n.

(b) In determining whether to approve an entity described in subsection (a) to provide services for a program administered by the office of the secretary, the office of the secretary may use the survey performed by the state department of health in licensing the entity.

SECTION 38. IC 12-9-1 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

ARTICLE 9.1. DIVISION OF AGING

Chapter 1. Establishment of Division

Sec. 1. The division of aging is established.

Sec. 2. IC 12-8-8 applies to the division.

Sec. 3. The bureau of aging and in-home services established by IC 12-10-1-1 is part of the division.

Chapter 2. Director of Division

Sec. 1. The division shall be administered by a director appointed under IC 12-8-8-1.

Sec. 2. IC 12-8-8 applies to the director.

Sec. 3. (a) The director may do the following:

(1) Employ experts and consultants to assist the division in carrying out the division's functions.

(2) Use, with their consent, the services and facilities of other state agencies without reimbursement.

(3) Accept in the name of the division, for use in carrying out the functions of the division, money or property received by gift, bequest, or otherwise.

(4) Accept voluntary and uncompensated services.

(5) Expend money made available to the division according to policies enforced by the budget agency.

(6) Adopt rules under IC 4-22-2 necessary to carry out the functions of the division. However, rules adopted by the director must be approved by the family and social services committee established by IC 12-8-3-2 before submission to the attorney general under IC 4-22-2-31.

(7) Establish and implement the policies and procedures necessary to carry out the functions of the division.

(8) Perform any other acts necessary to carry out the functions of the division.

(b) The director shall compile information and statistics from each bureau concerning the ethnicity and gender of a program or service recipient. The director may adopt rules under IC 4-22-2 necessary to implement this subsection.

Sec. 4. The director may, with the approval of the budget agency, hire the personnel necessary to perform the duties of the division.

Chapter 3. Personnel of Division

Sec. 1. Except as provided in IC 4-15-2-3.8, IC 4-15-2 applies to all employees of the division.

Sec. 2. (a) If a member, an officer, or an employee of the division is accused of an offense or sued for civil damages because
of an act performed:

(1) within the course of the individual's employment; or
(2) under the authority or order of a superior officer;
the attorney general shall defend the individual in an action for civil damages. If the action or proceeding is criminal in nature, the governor shall designate counsel to represent and defend the accused, and the state is financially responsible for the expense of the defense.

(b) This section does not do either of the following:
(1) Deprive an individual of the right to select defense counsel of the individual's choice at the individual's expense.
(2) Relieve any person from responsibility in civil damages.

Chapter 4. Duties of Division

Sec. 1. The division shall administer money appropriated or allocated to the division by the state, including money appropriated or allocated from the following:

(1) The federal Older Americans Act (42 U.S.C. 3001 et seq.).
(2) The United States Department of Agriculture (7 U.S.C. 612C et seq.).
(3) Medicaid waiver in-home services for the elderly and disabled (42 U.S.C. 1396 et seq.) for treatment of medical conditions.

(4) Money appropriated or allocated to the division to administer a program under this title.

(5) Other funding sources that are designated by the general assembly or available from the federal government under grants that are consistent with the duties of the division.

Sec. 2. The division shall administer the following programs:

(1) Programs established under any of the following statutes:

(A) This article.
(B) IC 12-10.
(2) Programs under IC 12-30, to the extent the division has responsibilities for programs under IC 12-30.
(3) Medicaid waivers for in-home services for treatment of medical conditions.

Sec. 3. Notwithstanding any other law:

(1) Home health agencies licensed under IC 16-27-1 are approved to provide home health services; and
(2) Personal services agencies licensed under IC 16-27-4 are approved to provide personal services;
under any federal waiver granted to the state under 42 U.S.C. 1315 or 42 U.S.C. 1396n that provides services for treatment of medical conditions.

SECTION 39. IC 12-10-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The bureau shall administer the following programs:

(1) The federal Older Americans Act under IC 12-9-5-1.
IC 12-9-1-4-1.
(2) Area agencies on aging services under this article.
(3) Adult protective services under IC 12-10-3.
(4) Room and board assistance and assistance to residents in county homes under IC 12-10-6.
(5) Adult guardianship program under IC 12-10-7.
(6) Community and home options for the elderly and disabled under IC 12-10-10.
(7) Nursing home readmission screening under IC 12-10-12.
(9) Nutrition services and home delivered meals.
(10) Title III B supportive services.
(11) Title III D in-home services.
(12) Aging programs under the Social Services Block Grant.
(13) United States Department of Agriculture elderly feeding program.
(14) Title V senior employment.
(15) PASARR under older adult services.

SECTION 40. IC 12-10-3-29.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 29.5. (a) Except as provided in subsection (b), an adult protective services unit or a staff member of the adult protective services unit on the basis of the staff member's employment may not be designated as:

(1) a personal representative;
(2) a health care representative;
(3) a guardian;
(4) a guardian ad litem; or
(5) any other type of representative;
for an endangered adult.

(b) The:
(1) county prosecutor in the county in which the adult protective services unit is located; or
(2) head of the governmental entity if the adult protective services unit is operated by a governmental entity;
may give written permission for an adult protective services unit or a staff member of the adult protective services unit to be designated as a representative described in subsection (a)(1) through (a)(5).

SECTIon 41. IC 12-10-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) An individual who:
(1) is at least sixty-five (65) years of age, blind, or disabled; and
(2) is a resident of a county home;
is eligible to receive assistance payments from the state if the individual would be eligible for assistance under the federal Supplemental Security Income program except for the fact that the individual is residing in a county home.

(b) The amount of nonmedical assistance to be paid on behalf of a resident in a county home must be based on the daily rate established by the division. The rate for facilities under this section and licensed under IC 16-28 may not exceed an upper rate limit established by a rule adopted by the division.

(c) The rate for facilities under this section but not licensed under IC 16-28 must be the lesser of:
(1) an upper rate limit established by a rule adopted by the division; or
(2) a reasonable and adequate rate to meet the costs, determined by generally accepted accounting principles, that are incurred by efficiently and economically operated facilities in order to provide care and services in conformity with quality and safety standards and applicable laws and rules.

(d) The recipient shall be paid or allowed to retain from the recipient's income a monthly personal allowance. The amount:
(1) is fifty-two dollars ($52); and
(2) is exempt from income eligibility consideration by the division; and
(3) may be exclusively used by the recipient for personal needs.

(e) In addition to the amount that may be retained as a personal allowance under this section, an individual is allowed to retain an amount equal to the individual's state and local income tax liability.

The amount that may be retained during a month may not exceed one-third (1/3) of the individual's state and local income tax liability for the calendar quarter in which the month occurs. This amount is exempt from income eligibility consideration by the division. The amount retained shall be used by the individual to pay state or local income taxes owed.

(f) In addition to the amounts that may be retained under subsections (d) and (e), an eligible individual may retain a Holocaust victim's settlement payment. The payment is exempt from income eligibility consideration by the division.

(g) The personal allowance for one (1) month for an individual described in subsection (a) is the amount that an individual would be entitled to retain under subsection (d) plus an amount equal to one-half (½) of the remainder of:
(1) gross earned income for that month; minus
(2) the sum of:
(A) sixteen dollars ($16); plus
(B) the amount withheld from the person's paycheck for that month for payment of state income tax, federal income tax, and the tax prescribed by the federal Insurance Contribution Act (26 U.S.C. 3101 et seq.); plus

(C) transportation expenses for that month; plus
(D) any mandatory expenses required by the employer as a condition of employment.

(h) The division, of disability, aging, and rehabilitative services, in cooperation with the state department of health taking into account
licensure requirements under IC 16-28, shall adopt rules under IC 4-22-2 governing the reimbursement to facilities under this section. The rules must be designed to determine the costs that must be incurred by efficiently and economically operated facilities to provide room, board, laundry, and other services, along with minimal administrative direction to individuals who receive residential care in the facilities under this section. A rule adopted under this subsection by:

(1) the division; or
(2) the state department of health;

must conform to the rules for residential care facilities that are licensed under IC 16-28.

(i) A rate established under this section may be appealed according to the procedures under IC 4-21.5.

(j) The division shall annually review each facility's rate using the following:

(1) Generally accepted accounting principles.
(2) The costs incurred by efficiently and economically operated facilities in order to provide care and services in conformity with quality and safety standards and applicable laws and rules.

SECTION 42. IC 12-10-6-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.1. (a) An individual who is incapable of residing in the individual's own home may apply for residential care assistance under this section. The determination of eligibility for residential care assistance is the responsibility of the division. Except as provided in subsections (g) and (i), an individual is eligible for residential care assistance if the division determines that the individual:

(1) is a recipient of Medicaid or the federal Supplemental Security Income program;
(2) is incapable of residing in the individual's own home because of dementia, mental illness, or a physical disability;
(3) requires a degree of care less than that provided by a health care facility licensed under IC 16-28; and
(4) can be adequately cared for in a residential care setting.

(b) Individuals suffering from mental retardation may not be admitted to a home or facility that provides residential care under this section.

(c) A service coordinator employed by the division may:

(1) evaluate a person seeking admission to a home or facility under subsection (a); or
(2) evaluate a person who has been admitted to a home or facility under subsection (a), including a review of the existing evaluations in the person's record at the home or facility.

If the service coordinator determines the person evaluated under this subsection is mentally retarded, the service coordinator may recommend an alternative placement for the person.

(d) Except as provided in section 5 of this chapter, residential care consists of only room, board, and laundry, along with minimal administrative direction. State financial assistance may be provided for such care in a boarding or residential home of the applicant's choosing that is licensed under IC 16-28 or a Christian Science facility listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc., unless the facility is licensed under IC 16-28.

SECTION 43. IC 12-10-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]; Sec. 2. As used in this chapter, "community and home care services" means services provided within the limits of available funding to an eligible individual. The term includes the following:

(1) Homemaker services and attendant care, including personal care services.
(2) Respite care services and other support services for primary or family caregivers.
(3) Adult day care services.
(4) Home health services and supplies.
(5) Home delivered meals.
(6) Transportation services.
(7) Attendant care services provided by a registered personal services attendant under IC 12-10-17.1 to persons described in IC 12-10-17.6, IC 12-10-17.1-6.
(8) Other services necessary to prevent institutionalization of eligible individuals when feasible.

SECTION 44. IC 12-10-17.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS
[EFFECTIVE UPON PASSAGE]:
Chapter 17.1. Individuals in Need of Self-Directed In-Home Care

Sec. 1. This chapter does not apply to the following:
(1) An individual who provides attendant care services and who is employed by and under the direct control of a home health agency (as defined in IC 12-15-34-1).
(2) An individual who provides attendant care services and who is employed by and under the direct control of a licensed hospice program under IC 16-25.
(3) An individual who provides attendant care services and who is employed by and under the control of an employer that is not the individual who is receiving the services.
(4) A practitioner (as defined in IC 25-1-9-2) who is practicing under the scope of the practitioner's license (as defined in IC 25-1-9-3).

Sec. 2. As used in this chapter, "ancillary services" means services ancillary to the basic services provided to an individual in need of self-directed in-home care who needs at least one (1) of the basic services (as defined in section 4 of this chapter). The term includes the following:
(1) Homemaker services, including shopping, laundry, cleaning, and seasonal chores.
(2) Companion services, including transportation, letter writing, mail reading, and escort services.
(3) Assistance with cognitive tasks, including managing finances, planning activities, and making decisions.

Sec. 3. As used in this chapter, "attendant care services" means those basic and ancillary services that the individual chooses to direct and supervise a personal services attendant to perform and that enable an individual in need of self-directed in-home care to live in the individual's home and community rather than in an institution and to carry out functions of daily living, self-care, and mobility.

Sec. 4. As used in this chapter, "basic services" means a function that could be performed by the individual in need of self-directed in-home care if the individual were not physically disabled. The term includes the following:
(1) Assistance in getting in and out of beds, wheelchairs, and motor vehicles.
(2) Assistance with routine bodily functions, including:
   (A) health related services (as defined in section 5 of this chapter);
   (B) bathing and personal hygiene;
   (C) dressing and grooming;
   (D) feeding, including preparation and cleanup.

Sec. 5. As used in this chapter, "health related services" means those medical activities that, in the written opinion of the attending physician submitted to the case manager of the individual in need of self-directed in-home care, could be performed by the individual if the individual were physically capable, and if the medical activities can be safely performed in the home, and:
(1) are performed by a person who has been trained or instructed on the performance of the medical activities by an individual in need of self-directed in-home care who is, in the written opinion of the attending physician submitted to the case manager of the individual in need of self-directed in-home care, capable of training or instructing the person who will perform the medical activities; or
(2) are performed by a person who has received training or instruction from a licensed health professional, within the professional's scope of practice, in how to properly perform the medical activity for the individual in need of self-directed in-home care.

Sec. 6. As used in this chapter, "individual in need of self-directed in-home care" means a disabled individual, or person responsible for making health related decisions for the disabled individual, who:
(1) is approved to receive Medicaid waiver services under 42 U.S.C. 1396n(c), or is a participant in the community and home options to institutional care for the elderly and disabled program under IC 12-10-10;
(2) is in need of attendant care services because of impairment;
(3) requires assistance to complete functions of daily living, self-care, and mobility, including those functions included in attendant care services;
(4) chooses to direct a paid personal services attendant to perform attendant care services; and
(5) assumes the responsibility to initiate self-directed in-home care and exercise judgment regarding the manner in which those services are delivered, including the decision to employ, train, and dismiss a personal services attendant.

Sec. 7. As used in this chapter, "licensed health professional" means any of the following:
(1) A registered nurse.
(2) A licensed practical nurse.
(3) A physician with an unlimited license to practice medicine or osteopathic medicine.
(4) A licensed dentist.
(5) A licensed chiropractor.
(6) A licensed optometrist.
(7) A licensed pharmacist.
(8) A licensed physical therapist.
(9) A certified occupational therapist.
(10) A certified psychologist.
(11) A licensed podiatrist.
(12) A licensed speech-language pathologist or audiologist.

Sec. 8. As used in this chapter, "personal services attendant" means an individual who is registered to provide attendant care services under this chapter and who has entered into a contract with an individual and acts under the individual's direction to provide attendant care services that could be performed by the individual if the individual were physically capable.

Sec. 9. As used in this chapter, "self-directed in-home health care" means the process by which an individual, who is prevented by a disability from performing basic and ancillary services that the individual would perform if not disabled, chooses to direct and supervise a paid personal services attendant to perform those services in order for the individual to live in the individual's home and community rather than an institution.

Sec. 10. (a) An individual may not provide attendant care services for compensation from Medicaid or the community and home options to institutional care for the elderly and disabled program for an individual in need of self-directed in-home care services unless the individual is registered under section 12 of this chapter.
(b) An individual who is a legally responsible relative of an individual in need of self-directed in-home care, including a parent of a minor individual and a spouse, is precluded from providing attendant care services for compensation under this chapter.

Sec. 11. An individual who desires to provide attendant care services must register with the division or with an organization designated by the division.

Sec. 12. (a) The division shall register an individual who provides the following:
(1) A personal resume containing information concerning the individual's qualifications, work experience, and any credentials the individual may hold. The individual must certify that the information contained in the resume is true and accurate.
(2) The individual's limited criminal history check from the Indiana central repository for criminal history information under IC 10-13-3 or another source allowed by law.
(3) If applicable, the individual's state nurse aide registry report from the state department of health. This subdivision does not require an individual to be a nurse aide.
(4) Three (3) letters of reference.
(5) A registration fee. The division shall establish the amount of the registration fee.
(6) Proof that the individual is at least eighteen (18) years of age.
(7) Any other information required by the division.
(b) A registration is valid for two (2) years. A personal services attendant may renew the personal services attendant's registration by updating any information in the file that has
changed and by paying the fee required under subsection (a)(5). The limited criminal history check and report required under subsection (a)(2) and (a)(3) must be updated every two (2) years.

(c) The division and any organization designated under section 11 of this chapter shall maintain a file for each personal services attendant that contains:

(1) comments related to the provision of attendant care services submitted by an individual in need of self-directed in-home care who has employed the personal services attendant; and
(2) the items described in subsection (a)(1) through (a)(4).

(d) Upon request, the division shall provide to an individual in need of self-directed in-home care the following:

(1) Without charge, a list of personal services attendants who are registered with the division and available within the requested geographic area.
(2) A copy of the information of a specified personal services attendant who is on file with the division under subsection (c).
(3) The division may charge a fee for shipping, handling, and copying expenses.

Sec. 13. The case manager of an individual in need of self-directed in-home care shall maintain an attending physician's written opinion submitted under section 5 of this chapter in a case file that is maintained for the individual by the case manager.

Sec. 14. (a) A personal services attendant who is hired by the individual in need of self-directed in-home care is an employee of the individual in need of self-directed in-home care.

(b) The division is not liable for any actions of a personal services attendant or an individual in need of self-directed in-home care.

(c) A personal services attendant and an individual in need of self-directed in-home care are each liable for any negligent or wrongful act or omission in which the person personally participates.

Sec. 15. (a) Except as provided in subsection (b), an individual in need of self-directed in-home care is responsible for recruiting, hiring, training, paying, certifying any employment related documents, dismissing, and supervising in the individual's home during service hours a personal services attendant who provides attendant care services for the individual.

(b) If an individual in need of self-directed in-home care is:

(1) less than twenty-one (21) years of age; or
(2) unable to direct in-home care because of a brain injury or mental deficiency:

the individual's parent, spouse, legal guardian, or a person possessing a valid power of attorney for the individual, may make employment, care, and training decisions and certify any employment related documents on behalf of the individual.

(c) An individual in need of self-directed in-home care or an individual under subsection (b) and the individual's case manager shall develop an authorized care plan. The authorized care plan must include a list of weekly services or tasks that must be performed to comply with the authorized care plan.

Sec. 16. The division shall adopt rules under IC 4-22-2 concerning:

(1) the method of payment to a personal services attendant who provides authorized services under this chapter; and
(2) record keeping requirements for personal attendant services.

Sec. 17. The individual in need of self-directed in-home care and the personal services attendant must each sign a contract, in a form approved by the division, that includes, at a minimum, the following provisions:

(1) The responsibilities of the personal services attendant.
(2) The frequency the personal services attendant will provide attendant care services.
(3) The duration of the contract.
(4) The hourly wage of the personal services attendant. The wage may not be less than the federal minimum wage or more than the rate that the recipient is eligible to receive under a Medicaid home and community based services waiver or the community and home options to institutional care for the elderly and disabled program for attendant care services.
(5) Reasons and notice agreements for early termination of the contract.

Sec. 18. (a) The office shall amend the home and community based services waiver program under the state Medicaid plan to provide for the payment for attendant care services provided by a personal services attendant for an individual in need of self-directed in-home care under this chapter, including any related record keeping and employment expenses.

(b) The office shall not, to the extent permitted by federal law, consider as income money paid under this chapter for or on behalf of an individual in need of self-directed in-home care to enable the individual to employ registered personal services attendants, for purposes of determining the individual's income eligibility for services under this chapter.

Sec. 19. The division may:

(1) initiate demonstration projects to test new ways of providing attendant care services; and
(2) research ways to best provide attendant care services in urban and rural areas.

Sec. 20. (a) The division and office may adopt rules under IC 4-22-2 that are necessary to implement this chapter.

(b) The office shall apply for any federal waivers necessary to implement this chapter.

Sec. 21. The division shall adopt rules under IC 4-22-2 concerning the following:

(1) The receipt, review, and investigation of complaints concerning the:

(A) neglect;
(B) abuse;
(C) mistreatment; or
(D) misappropriation of property;

of an individual in need of self-directed in-home care by a personal services attendant.

(2) Establishing notice and administrative hearing procedures in accordance with IC 4-21.5.
(3) Appeal procedures, including judicial review of administrative hearings.
(4) Procedures to place a personal services attendant who has been determined to have been guilty of:

(A) neglect;
(B) abuse;
(C) mistreatment; or
(D) misappropriation of property;

of an individual in need of self-directed in-home care on the state nurse aide registry.

SECTION 45. IC 12-10.5-1-4, AS AMENDED BY P.L.37-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) The division of disability, aging and rehabilitative services established by IC 12-9-1-1 IC 12-9-1-1-1 shall administer the caretaker support program established under this chapter.

(b) The division of disability, aging and rehabilitative services shall do the following:

(1) Subject to section 9 of this chapter, adopt rules under IC 4-22-2 for the coordination and administration of the caretaker support program.
(2) Administer any money for the caretaker support program that is appropriated by the general assembly.

SECTION 46. IC 12-12-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The commission consists of at least fourteen (14) members appointed by the governor as follows:

(1) Three (3) members representing advocacy groups for:

(A) individuals with:

(i) physical;
(ii) cognitive;
(iii) sensory; and
(iv) mental; disabilities; or
(B) parents, guardians, or advocates of individuals with disabilities who have difficulty or who are unable to represent themselves.
(2) At least one (1) member representing current or former applicants for vocational rehabilitation services or recipients of vocational rehabilitation services.
(3) At least one (1) representative of the statewide Independent Living Council.
(4) At least one (1) representative of a parent training and information center established by the individuals with disabilities education act.
(5) At least one (1) representative of the Indiana protection and advocacy services agency.
(6) At least one (1) representative of community rehabilitation program service providers.
(7) Four (4) representatives of business, industry, and labor.
(8) The director of the division of disability support and rehabilitative services shall serve as an ex officio member.
(9) A vocational rehabilitation counselor shall serve as an ex officio nonvoting member.

(b) Not more than seven (7) members of the commission may be from the same political party.

(c) At least fifty-one percent (51%) of the commission must be persons with disabilities who are not employees of the division of disability support and rehabilitative services.

SECTION 52. IC 12-12-8-6, AS ADDED BY P.L.217-2005,
SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) There is established a statewide independent living council. The council is not a part of a state agency.

(b) The council consists of at least twenty (20) members appointed by the governor, including the following:
(1) Each director of a center for independent living located in Indiana.
(2) Nonvoting members from state agencies that provide services for individuals with disabilities.
(3) Other members, who may include the following:
   (A) Representatives of centers for independent living.
   (B) Parents and guardians of individuals with disabilities.
   (C) Advocates for individuals with disabilities.
   (D) Representatives from private business.
   (E) Representative Representatives of organizations that provide services for individuals with disabilities.
   (F) Other appropriate individuals.

(c) The members appointed under subsection (b) must:
(1) provide statewide representation;
(2) represent a broad range of individuals with disabilities from diverse backgrounds;
(3) be knowledgeable about centers for independent living and independent living services; and
(4) include a majority of members who:
   (A) are individuals with significant disabilities; and
   (B) are not employed by a state agency or a center for independent living.

SECTION 53. IC 12-12-9-2, AS ADDED BY P.L.218-2005,
SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. The office of the secretary shall, on the first business day of each month, send a copy of a report filed under section 1 of this chapter to the following persons:
(1) For persons less than seventeen (17) years of age, to the following:
   (A) The Indiana School for the Blind and Visually Impaired.
   (B) The division of disability support and rehabilitative services.
   (C) The division of special education of the department of education.
(2) For persons at least seventeen (17) years of age, to the following:
   (A) The division of disability support and rehabilitative services.
   (B) On request, organizations serving the blind or visually impaired and the state department of health.

SECTION 54. IC 12-12-9-4, AS AMENDED BY P.L.218-2005,
SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) On receiving a report under
this chapter, the division of disability and rehabilitative services shall provide information to the visually impaired individual designated in the report concerning available state and local services.

(b) For a visually impaired individual less than seventeen (17) years of age, the Indiana School for the Blind and Visually Impaired:
(1) has the primary duty of initially contacting the visually impaired individual or the individual's family; and
(2) shall notify the division of disability and rehabilitative services and the department of education of the school's findings.

SECTION 55. IC 12-15-32-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) An applicant for Medicaid who desires to be placed in a community residential facility must first receive a diagnostic evaluation to be provided by the division of disability and rehabilitative services.

(b) Subsequent diagnostic evaluations by the division of disability and rehabilitative services shall be provided at least every twelve (12) months to review the individual's need for services.

(c) The office shall consider the evaluations in determining the appropriateness of placement.

SECTION 56. IC 12-16-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. As used in this chapter, "affected agency" means any of the following:
(1) The department of correction.
(2) The state department of health.
(3) The division of mental health and addiction.
(4) The division of disability and rehabilitative services.

SECTION 57. IC 12-16-2-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. The hospital care for the indigent program does not apply to inmates and patients of institutions of the department of correction, the state department of health, the division of mental health and addiction, the division of aging, or the division of disability and rehabilitative services.

SECTION 58. IC 12-16-10-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. The division shall, with the advice of the division's medical staff, the division of mental health and addiction, the division of disability and rehabilitative services, and other individuals selected by the director of the division, adopt rules under IC 4-22-2 to do the following:
(1) Provide for review and approval of services paid under the hospital care for the indigent program.
(2) Establish limitations consistent with medical necessity on the duration of services to be provided.
(3) Specify the amount of and method for reimbursement for services.
(4) Specify the conditions under which payments will be denied and improper payments will be recovered.

SECTION 59. IC 12-17-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. As used in this chapter, "agency" means a department, a commission, a council, a board, a bureau, a division, a service, an office, or an administration that is responsible for providing services to infants and toddlers with disabilities and their families, including the following:
(1) The division of mental health and addiction.
(2) The state department of health.
(3) The division of family and children.
(4) The division of disability and rehabilitative services.
(5) The department of education.

SECTION 60. IC 12-20-16-3, AS AMENDED BY P.L.73-2005, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The township trustee may, in cases of necessity, authorize the payment from township assistance money for essential utility services, including the following:
(1) Water services.
(2) Gas services.
(3) Electric services.
(4) Fuel oil services for fuel oil used for heating or cooking.
(5) Coal, wood, or liquid propane used for heating or cooking.

(b) The township trustee may authorize the payment of delinquent bills for the services listed in subsection (a)(1) through (a)(5) when necessary to prevent the termination of the services or to restore terminated service if the delinquency has lasted not longer than twenty-four (24) months. The township trustee has no obligation to pay a delinquent bill for the services or materials listed in subsection (a)(1) through (a)(5) if the delinquency has lasted longer than twenty-four (24) months.

(c) The township trustee is not required to pay for any utility service:
(1) that is not properly charged to:
   (A) an adult member of a household;
   (B) an emancipated minor who is head of the household; or
   (C) a landlord or former member of the household if the applicant proves that the applicant:
      (i) received the services as a tenant residing at the service address at the time the cost was incurred; and
      (ii) is responsible for payment of the bill;
(2) received as a result of a fraudulent act by any adult member of a household requesting township assistance; or
(3) that includes the use of township assistance funds for the payment of:
   (A) a security deposit; or
   (B) damages caused by a township assistance applicant to utility company property.

(d) The amount paid by the township trustee, as administrator of township assistance, and the amount charged for water services may not exceed the minimum rate charged for the service as fixed by the Indiana utility regulatory commission.

(e) This subsection applies only during the part of each year when applications for assistance are accepted by the division under IC 12-14-11. A township trustee may not provide assistance to make any part of a payment for heating fuel or electric services for more than thirty (30) days unless the individual files an application with the township trustee that includes the following:
(1) Evidence of application for assistance for heating fuel or electric services from the division under IC 12-14-11.
(2) The amount of assistance received or the reason for denial of assistance.

The township trustee shall inform an applicant for assistance for heating fuel or electric services that assistance for heating fuel and electric services may be available from the division under IC 12-14-11 and that the township trustee may not provide assistance to make any part of a payment for those services for more than thirty (30) days unless the individual files an application for assistance for heating fuel or electric services under IC 12-14-11. However, if the applicant household is eligible under criteria established by the division of disability and rehabilitative services for energy assistance under IC 12-14-11, the trustee may certify the applicant as eligible for that assistance by completing an application form prescribed by the state board of accounts and forwarding the eligibility certificate to the division of disability and rehabilitative services within the period established for the acceptance of applications. If the trustee follows this certification procedure, no other application is required for assistance under IC 12-14-11.

(f) If an individual or a member of an individual's household has received assistance under subsection (b), the individual must, before the individual or the member of the individual's household may receive further assistance under subsection (b), certify whether the individual's or household's income, resources, or household size has changed since the individual filed the most recent application for township assistance. If the individual or a member of the individual's household certifies that the income, resources, or household size has changed, the township trustee shall review the individual's or household's eligibility and may make any necessary adjustments in the level of assistance provided to the individual or to a member of the individual's household.

SECTION 61. IC 12-24-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. The director of the division of disability and rehabilitative services has administrative control of and responsibility for the following state institutions:
(1) Fort Wayne State Developmental Center.
(2) Muscatatuck State Developmental Center.
(3) (2) Any other state owned or operated developmental center.

SECTION 62. IC 12-24-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) The director of
the division of mental health and addiction has administrative control of
and responsibility for the following state institutions:

(1) Central State Hospital.
(2) (1) Evansville State Hospital.
(3) (2) Evansville State Psychiatric Treatment Center for
Children.
(4) (3) Larue D. Carter Memorial Hospital.
(5) (4) Logansport State Hospital.
(6) (5) Madison State Hospital.
(7) (6) Richmond State Hospital.

(8) (7) Any other state owned or operated mental health
institution.

(b) Subject to the approval of the director of the budget agency
and the governor, the director of the division of mental health
and addiction may contract for the management and clinical operation of
Larue D. Carter Memorial Hospital.

(c) The following applies only to the institutions described in
subsection (a)(1) and (a)(2):

(1) Notwithstanding any other statute or policy, the division of
mental health and addiction may not do the following after
December 31, 2001, unless specifically authorized by a statute
enacted by the general assembly:
(A) Terminate, in whole or in part, normal patient care or
other operations at the facility.
(B) Reduce the staffing levels and classifications below those
in effect at the facility on January 1, 2002.
(C) Terminate the employment of an employee of the facility
except in accordance with IC 4-15-2.
(2) The division of mental health and addiction shall fill a
vacancy created by a termination described in subdivision
(1)(C) so that the staffing levels at the facility are not reduced
below the staffing levels in effect on January 1, 2002.
(3) Notwithstanding any other statute or policy, the division of
mental health and addiction may not remove, transfer, or
discharge any patient at the facility unless the removal, transfer,
or discharge is in the patient's best interest and is approved by:
(A) the patient or the patient's parent or guardian;
(B) the individual's gatekeeper; and
(C) the patient's attending physician.
(d) The Evansville State Psychiatric Treatment Center for Children
shall remain independent of Evansville State Hospital and the
southwestern Indiana community mental health center, and the
Evansville State Psychiatric Treatment Center for Children shall
continue to function autonomously unless a change in administration
is specifically authorized by an enactment of the general assembly.

SECTION 63. IC 12-24-1-8 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) A director shall
produce a statistical report semiannually for each state institution that
is under the director's administrative control. The statistical report
must list the following information:
(1) The number of total hours worked in the state institution by
each classification of personnel for which the director maintains
data.
(2) The resident census of the state institution for which the
director maintains data.
(b) The director shall provide a compilation of the statistical
reports prepared under subsection (a) to the following:
(1) Each state institution that is under the director's
administrative control.
(2) The adult protective services unit under IC 12-10-3.
(c) Each state institution shall:
(1) make available in a place that is readily accessible to
residents and the public a copy of the compilation of statistical
reports provided under this section; and
(2) post a notice that a copy of the compilation of statistical
reports may be requested from the individual in charge of each
shift.
(b) The notice required under subsection (c)(2) must meet the
following conditions:
(1) Be posted in a conspicuous place that is readily accessible
to residents and the public.
(2) Be at least 24 point font size on a poster that is at least
eleven (11) inches wide and seventeen (17) inches long.
(3) Contain the:
(A) business telephone number of the superintendent of the
state institution; and
(B) toll free telephone number for filing complaints with the
division that is administratively in charge of the state
institution.
(4) State that if a resident, the legal representative of the
resident, or another individual designated by the resident
may adopt rules under IC 4-22-2 to carry out this section.
SECTION 65. IC 12-24-1-9 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) This section
applies to an individual who has a primary diagnosis of
developmental disability.
(b) Action contemplated by a patient under this section includes
action by the patient's parent or guardian if the patient is not
competent.
(c) If a patient is admitted to a state institution, the staff of the state
institution shall, before the patient is discharged, ask the patient
whether the patient's medical and treatment records may be sent to a
service coordinator employed by the division of disability services
and rehabilitative services under IC 12-11-2.1 so the service coordinator
may send the records to local agencies serving the needs of
developmentally disabled individuals in the area in which the patient
will reside.
(d) If a patient agrees to release the records, the patient shall sign

a form permitting the state institution to release to a service coordinator employed by the division of disability aging and rehabilitative services under IC 12-11-2.1 a copy of the patient's medical and treatment records to forward to local agencies serving the needs of developmentally disabled individuals in the area in which the patient will reside. The form must read substantially as follows:

AUTHORIZED TO RELEASE MEDICAL AND TREATMENT RECORDS

I agree to permit __________________________ (name of state institution) to release a copy of the medical and treatment records of __________________________ (patient's name) to __________________________ (name of local agency serving the needs of developmentally disabled individuals) at __________________________ (address) at __________________________ (date) (signature)

To: __________________________ (name of individual securing release of medical and treatment records)

I, __________________________ (signature), hereby authorize __________________________ (relationship to patient if signature is not that of the patient) to receive a copy of the medical and treatment records of __________________________ (patient's name) from the state institution __________________________ (name of state institution). The medical and treatment records are ordered by: __________________________ (signature of individual ordering release of medical and treatment records). If a patient knowingly signs the form for the release of medical records under subsection (d), a service coordinator employed by the division of disability aging and rehabilitative services under IC 12-11-2.1 shall allow local agencies serving the needs of developmentally disabled individuals in the area in which the patient will reside to obtain the following:

1. The patient's name.
2. The address of the patient's intended residence.
3. The patient's medical records.
4. A complete description of the treatment the patient was receiving at the state institution at the time of the patient's discharge.

If the local agency does not obtain a patient's records, the state institution shall deliver the medical records to the local agency before or at the time the patient is discharged.

If a patient does not agree to permit the release of the patient's medical and treatment records, the service coordinator shall deliver:

1. The patient's name; and
2. The address of the patient's intended residence; to local agencies serving the needs of developmentally disabled individuals in the area in which the patient will reside before or at the time the patient is discharged.

SECTION 66. IC 12-24-12-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) Upon admission to a state institution administered by the division of mental health and addiction, the gatekeeper is one (1) of the following:

1. For an individual with a psychiatric disorder, the community mental health center that submitted the report to the committing court under IC 12-26.
2. For an individual with a developmental disability, a division of disability aging and rehabilitative services service coordinator under IC 12-11-2.1.
3. For an individual entering an addictions program, an addictions treatment provider that is certified by the division of mental health and addiction.

(b) The division is the gatekeeper for the following:

1. An individual who is found to have insufficient comprehension to stand trial under IC 35-36-3.
2. An individual who is found to be not guilty by reason of insanity under IC 35-36-2-4 and is subject to a civil commitment under IC 12-26.
3. An individual who is immediately subject to a civil commitment upon the individual's release from incarceration in a facility administered by the department of correction or the Federal Bureau of Prisons, or upon being charged with or convicted of a forcible felony under IC 35-41-1.

4. An individual placed under the supervision of the division for addictions treatment under IC 12-23-7 and IC 12-23-8.

5. An individual transferred from the department of correction under IC 11-10-4.

SECTION 67. IC 12-26-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) If, upon the completion of the hearing and consideration of the record, the court finds that the individual is mentally ill and either dangerous or gravely disabled, the court may order the individual to:

1. Be committed to an appropriate facility; or
2. Enter an outpatient treatment program under IC 12-26-14 for a period of no more than ninety (90) days.

(b) The court's order must require that the superintendent of the facility or the attending physician file a treatment plan with the court within fifteen (15) days of the individual's admission to the facility under a commitment order.

(c) If the commitment ordered under subsection (a) is to a state institution administered by the division of mental health and addiction, the record of commitment proceedings must include a report from a community mental health center stating both of the following:

1. That the community mental health center has evaluated the individual.
2. That commitment to a state institution administered by the division of mental health and addiction under this chapter is appropriate.

(d) The physician who makes the statement required by section 2(c) of this chapter may be affiliated with the community mental health center that submits to the court the report required by subsection (c).

(e) If the commitment is of an adult to a research bed at Larue D. Carter Memorial Hospital as set forth in IC 12-21-2-3, the report from a community mental health center is not required.

(f) If a commitment ordered under subsection (a) is to a state institution administered by the division of disability aging and rehabilitative services, the record of commitment proceedings must include a report from a service coordinator employed by the division of disability aging and rehabilitative services stating that, based on a diagnostic assessment of the individual, commitment to a state institution administered by the division of disability aging and rehabilitative services under this chapter is appropriate.

SECTION 68. IC 12-26-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) A petition filed under section 2 of this chapter must include a physician's written statement that states both of the following:

1. The physician has examined the individual within the past thirty (30) days.
2. The physician believes that the individual is:
   (A) mentally ill and either dangerous or gravely disabled; and
   (B) in need of custody, care, or treatment in a facility for a period expected to be more than ninety (90) days.

(b) Except as provided in subsection (d), if the commitment is to a state institution administered by the division of mental health and addiction, the record of the proceedings must include a report from a community mental health center stating both of the following:

1. The community mental health center has evaluated the individual.
2. Commitment to a state institution administered by the division of mental health and addiction under this chapter is appropriate.

(c) The physician who makes the statement required by subsection (a) may be affiliated with the community mental health center that makes the report required by subsection (b).

(d) If the commitment is of an adult to a research bed at Larue D. Carter Memorial Hospital, as set forth in IC 12-21-2-3, the report from a community mental health center is not required.

(e) If a commitment ordered under subsection (a) is to a state institution administered by the division of disability aging and rehabilitative services, the record of commitment proceedings must include a report from a service coordinator employed by the division of disability aging and rehabilitative services stating that, based on a diagnostic assessment of the individual, commitment to a state institution administered by the division of disability aging and
rehabilitative services under this chapter is appropriate.

SECTION 69. IC 12-28-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. For residential facilities for the developmentally disabled that are certified for financial participation under the Medicaid program, the division of disability and rehabilitative services shall recommend staffing limitations consistent with the program needs of the residents as a part of the office of Medicaid policy and planning's rate setting procedures.

SECTION 70. IC 12-28-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. For residential facilities for the developmentally disabled that are not certified for financial participation under the Medicaid program, the division of disability and rehabilitative services shall approve appropriate staffing limitations consistent with the program needs of the residents as a part of the division's rate setting procedures.

SECTION 71. IC 12-28-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. The office of Medicaid policy and planning and the division of disability and rehabilitative services shall enter into a memorandum of agreement that defines the staffing limitations to be used by the office of Medicaid policy and planning in establishing reimbursement rates. The staffing limitations under section 5 of this chapter may not exceed the staffing limitations defined by the memorandum of agreement between the office of Medicaid policy and planning and the division of disability and rehabilitative services under section 4 of this chapter.

SECTION 72. IC 12-28-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. (a) Subject to the availability of money and consistent with needs assessment, the division of disability and rehabilitative services shall give priority to the establishment of residential facilities, other than the facilities described in section 3 of this chapter, in counties in which the ratio of the number of residential facility beds to county population is in the lowest twenty-five percent (25%) when compared to all other Indiana counties. The division of disability and rehabilitative services may operate residential facilities established under this section.

(b) Before the division of disability and rehabilitative services takes any steps to establish a residential facility under this section, the division shall place at least two (2) legal advertisements in a newspaper having a general circulation in the county. These advertisements must be aimed at recruiting private parties to serve as operators of residential facilities in the county. The advertisements must be published at intervals at least one (1) month apart.

SECTION 73. IC 12-28-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) The division of disability and rehabilitative services may operate a program known as the development and lease effort. Under the program, the division of disability and rehabilitative services may develop contracts under which the state agrees to lease buildings from private parties for use as residential facilities for mentally ill individuals or autistic or other developmentally disabled individuals. Notwithstanding any other law, each contract may include provisions that ensure the following:

(1) That the state will lease a building for not more than ten (10) years for use as a residential facility for autistic individuals.

(2) That the state will retain the right to extend the term of the lease for not more than ten (10) years at the conclusion of the first ten (10) years.

(3) That the state will retain the right to sublease the building to a person who agrees to operate the building as a residential facility for autistic individuals under this chapter.

(b) Leases entered into under this section are subject to the approval of the Indiana department of administration, the attorney general, the governor, and the budget agency, as provided by law.

SECTION 74. IC 12-28-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The community residential facilities council is established. The council consists of the following members appointed by the governor:

(1) One (1) professional possessing specialized training in the field of human development.

(2) One (1) member of the professional staff of the division of disability and rehabilitative services.

(3) One (1) member of the professional staff of the office of Medicaid policy and planning.

(4) One (1) member of the professional staff of the state department of health.

(5) One (1) individual possessing a special interest in developmentally disabled individuals.

(6) One (1) individual possessing a special interest in mentally ill individuals.

(7) One (1) individual who is the chief executive officer of a facility providing both day services and residential services for developmentally disabled individuals.

(8) One (1) individual who is the chief executive officer of a facility providing residential services only for developmentally disabled individuals.

(9) One (1) individual who is a member of the professional staff of the Indiana protection and advocacy services commission. The individual appointed under this subdivision is an ex officio member of the council.

(10) One (1) individual who is the chief executive officer of an entity providing only supported living services.

(11) One (1) individual who is receiving services through the bureau of developmental disabilities services.

(12) Two (2) members of the public. One (1) member appointed under this subdivision may be a member of a representative organization of state employees.

(b) Except for the members designated by subsection (a)(7), (a)(8), and (a)(10), a member of the council may not have an indirect or a direct financial interest in a residential facility for the developmentally disabled.

SECTION 75. IC 12-28-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. In conjunction with the division of disability and rehabilitative services, the council shall do the following:

(1) Determine the current and projected needs of each geographic area of Indiana for residential services for developmentally disabled individuals.

(2) Determine how the provision of developmental or vocational services for residents in these geographic areas affects the availability of developmental or vocational services to developmentally disabled individuals living in their own homes.

(3) Develop standards for licensure of supervised group living facilities regarding the following:

(A) A sanitary and safe environment for residents and employees.

(B) Classification of supervised group living facilities.

(C) Any other matters that will ensure that the residents will receive a residential environment.

(4) Develop standards for the approval of entities providing supported living services.

(5) Recommend social and habilitation programs to the Indiana health facilities council for developmentally disabled individuals who reside in health facilities licensed under IC 16-28.

(6) Develop and update semiannually a report that identifies the numbers of developmentally disabled individuals who live in health facilities licensed under IC 16-28. The Indiana health facilities council shall assist in developing and updating this report.

SECTION 76. IC 12-28-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. The division of disability and rehabilitative services shall provide the staff for the council to accomplish the council's functions. The council may require any other agency of state government to assist the council in performing a review of a supervised group living facility to determine if the supervised group living facility should be licensed.
Other state agencies authorized by law or rule to carry out activities and control money that have a direct bearing upon the provision of supervised group living services shall enter into memoranda of understanding or contracts with the division of disability and rehabilitative services to ensure a coordinated utilization of resources and responsibilities.

SECTION 78. IC 12-29-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) On the first Monday in October, the county auditor shall certify to:

1. the division of disability and rehabilitative services, for a community mental retardation and other developmental disabilities center; and
2. the president of the board of directors of each center; the amount of money that will be provided to the center under this chapter.

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

1. One-half (½) of the county payment to the center shall be made on the second Monday in July.
2. One-half (½) of the county payment to the center shall be made on the second Monday in December.

(c) Payments by the county fiscal body are in place of grants from agencies supported within the county solely by county tax money.

SECTION 79. IC 12-29-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) As used in this section, "community mental retardation and other developmental disabilities center" means a community center that is:

1. incorporated under IC 23-7-1.1 before its repeal August 1, 1991 or IC 23-17;
2. organized for the purpose of providing services for mentally retarded and other individuals with a developmental disability;
3. approved by the division of disability and rehabilitative services; and
4. accredited for the services provided by one (1) of the following organizations:
   (A) The Commission on Accreditation of Rehabilitation Facilities (CARF), or its successor.
   (B) The Council on Quality and Leadership in Supports for People with Disabilities, or its successor.
   (C) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or its successor.
   (D) The National Commission on Quality Assurance, or its successor.
   (E) An independent national accreditation organization approved by the secretary.

(b) The county executive of a county may authorize the furnishing of financial assistance to a community mental retardation and other developmental disabilities center serving the county.

(c) Upon the request of the county executive, the county fiscal body may appropriate annually, from the general fund of the county, money to provide financial assistance in an amount not to exceed the amount that could be collected from the annual tax levy of sixty-seven hundredths of one cent ($0.0067) on each one hundred dollars ($100) of taxable property.

SECTION 80. IC 16-27-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) As used in this chapter, "home health agency" means a person that provides or offers to provide only a home health service for compensation.

(b) The term does not include the following:

1. An individual health care professional who provides professional services to a patient in the temporary or permanent residence of the patient.
2. A local health department as described in IC 16-20 or IC 16-22-8.
3. A person that:
   (a) is approved by the division of disability and rehabilitative services to provide supported living services or supported living supports to individuals with developmental disabilities;
   (B) is subject to rules adopted under IC 12-11-2.1; and
   (C) serves only individuals with developmental disabilities who are in a placement authorized under IC 12-11-2.1-4.

SECTION 81. IC 16-27-1-5, AS AMENDED BY P.L.212-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) As used in this chapter, "home health services" means services that:

1. are provided to a patient by:
   (A) a home health agency; or
   (B) another person under an arrangement with a home health agency,
   in the temporary or permanent residence of the patient; and
2. either, are required by law to be:
   (A) ordered by a licensed physician, a licensed dentist, a licensed chiropractor, a licensed podiatrist, or a licensed optometrist for the service to be performed; or
   (B) performed only by a health care professional.

(b) The term includes the following:

1. Nursing treatment and procedures.
2. Physical therapy.
3. Occupational therapy.
4. Speech therapy.
5. Medical social services.
6. Home health aide services.
7. Other therapeutic services.

(c) The term does not apply to the following:

1. Services provided by a physician licensed under IC 25-22.5.
2. Incidental services provided by a licensed health facility to patients of the licensed health facility.
3. Services provided by employers or membership organizations using health care professionals for their employees, members, and families of the employees or members if the health or home care services are not the predominant purpose of the employer or a membership organization's business.
4. Nonmedical nursing care given in accordance with the tenets and practice of a recognized church or religious denomination to a patient who depends upon healing by prayer and spiritual means alone in accordance with the tenets and practices of the patient's church or religious denomination.
5. Services that are allowed to be performed by an attendant under IC 16-27-1-10.
6. Authorized services provided by a personal services attendant under IC 12-10-17.1.

SECTION 82. IC 16-27-4-4, AS ADDED BY P.L.212-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) As used in this chapter, "personal services" means:

1. attendant care services;
2. homemaker services that assist with or perform household tasks, including housekeeping, shopping, laundry, meal planning and preparation, and cleaning; and
3. companion services that provide fellowship, care, and protection for a client, including transportation, letter writing, mail reading, and escort services;

that are provided to a client at the client's residence.

(b) The term does not apply to the following:

1. Incidental services provided by a licensed health facility to patients of the licensed health facility.
2. Services provided by employers or membership organizations for their employees, members, and families of the employees or members if the services are not the predominant purpose of the employer or the membership organization's business.
3. Services that are allowed to be performed by a personal services attendant under IC 12-10-17.1.
4. Services that require the order of a health care professional for the services to be lawfully performed in Indiana.
5. Assisted living Medicaid waiver services.
6. Services that are performed by a facility described in IC 12-10-15.

SECTION 83. IC 16-27-4-5, AS ADDED BY P.L.212-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) As used in this chapter, "personal services agency" means a person that provides or offers to provide a personal service for compensation, whether through the
agency's own employees or by arrangement with another person.
(b) The term does not include the following:
(1) An individual who provides personal services only to the individual's family or to not more than three (3) individuals per residence and not more than a total of seven (7) individuals concurrently. As used in this subdivision, "family" means the individual's spouse, child, parent, parent-in-law, grandparent, grandchild, brother, brother-in-law, sister, sister-in-law, aunt, aunt-in-law, uncle, uncle-in-law, niece, and nephew.
(2) A local health department as described in IC 16-20 or IC 16-22-8.
(3) A person that:
(A) is approved by the division of disability and rehabilitative services to provide supported living services or supported living support to individuals with developmental disabilities;
(B) is subject to rules adopted under IC 12-11-2.1; and
(C) serves only individuals with developmental disabilities who are in a placement authorized under IC 12-11-2.1-4.

SECTION 84. IC 16-28-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) The Indiana health facilities council is created. The council consists of fourteen (14) members as follows:
(1) One (1) licensed physician.
(2) Two (2) administrators, licensed under IC 25-19-1, of a proprietary health facility licensed under this article.
(3) One (1) administrator, licensed under IC 25-19-1, of a nonproprietary health facility licensed under this article.
(4) One (1) registered nurse licensed under IC 25-23.
(5) One (1) registered pharmacist licensed under IC 25-26.
(6) Two (2) citizens having knowledge or experience in the field of gerontology.
(7) One (1) representative of a statewide senior citizens organization.
(8) One (1) citizen having knowledge or experience in the field of mental health.
(9) One (1) nurse-educator of a practical nurse program.
(10) The commissioner.
(11) The director of the division of family and children or the director's designee.
(12) The director of the division of disability, aging and rehabilitative services or the director's designee.
(b) The members of the council designated by subsection (a)(1) through (a)(9) shall be appointed by the governor.
(c) Except for the members of the council designated by subsection (a)(10) through (a)(12), all appointments are for four (4) years. If a vacancy occurs, the appointee serves for the remainder of the unexpired term. A vacancy is filled from the same group that was represented by the outgoing member.
(d) Except for the members of the council designated by subsection (a)(2) through (a)(3), a member of the council may not have a pecuniary interest in the operation of or provide professional services through employment or under contract to a facility licensed under this article.

SECTION 85. IC 16-28-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in this chapter, "other unlicensed employee" means:
(1) an employee of a health facility;
(2) a hospital based health facility; or
(3) a personal services attendant (as defined by IC 42-10-17-8); in IC 12-10-17-1-8);
who is not licensed (as defined in IC 25-1-9-3) by a board (as defined in IC 25-1-9-1).
(b) The term does not include an employee of an ambulatory outpatient surgical center, a home health agency, a hospice program, or a hospital that is not licensed (as defined in IC 25-1-9-3) by a board (as defined in IC 25-1-9-1).

SECTION 86. IC 16-32-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. The committee shall be composed of the following members:
(1) The director of the division of disability and rehabilitative services or the director's designee.
(2) The commissioner of the Indiana department of administration or the commissioner's designee.
(3) The executive director of the governor's planning council on people with disabilities.
(4) The director of the division of mental health and addiction or the director's designee.
(5) The commissioner of the state department of health or the commissioner's designee.
(6) Three (3) members appointed by the governor to represent the public at large.

SECTION 87. IC 16-32-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. The members of the committee shall be reimbursed for expenses at a rate equal to that of state employees on a per diem basis by the division of disability and rehabilitative services.

SECTION 88. IC 16-32-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. The director of the division of disability and rehabilitative services shall designate a staff member to act as executive secretary to the committee.

SECTION 89. IC 16-36-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. The superintendent shall compile a report of all medically necessary treatments approved under this chapter during each calendar quarter and send the report to the director of the division of mental health and addiction or the division of disability and rehabilitative services not more than one (1) month after the end of that quarter. The report must contain the following information:
(1) The name of the patient.
(2) The type of action taken.
(3) The date of the action.
(4) The reason for the action.
(5) The names of the treating physician, the physician independent of the appropriate facility, and any other physician who entered an opinion that was contrary to the treating physician's opinion.

SECTION 90. IC 16-39-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. A record for each patient receiving mental health services shall be maintained by the provider. The mental health record must contain the information that the division of mental health and addiction, the division of disability and rehabilitative services, or the state department requires by rule. The provider is:
(1) the owner of the mental health record;
(2) responsible for the record's safekeeping; and
(3) entitled to retain possession of the record.
The information contained in the mental health record belongs to the patient involved as well as to the provider. The provider shall maintain the original mental health record or a microfilm of the mental health record for at least seven (7) years.

SECTION 91. IC 16-39-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) Without the consent of the patient, the patient's mental health record may only be disclosed as follows:
(1) To individuals who meet the following conditions:
(A) Are employed by:
(i) the provider at the same facility or agency;
(ii) a managed care provider (as defined in IC 12-7-2-127(b)); or
(iii) a health care provider or mental health care provider, if the mental health records are needed to provide health care or mental health services to the patient.
(B) Are involved in the planning, provision, and monitoring of services.
(2) To the extent necessary to obtain payment for services rendered or other benefits to which the patient may be entitled, as provided in IC 16-39-5-3.
(3) To the patient's court-appointed counsel and to the Indiana protection and advocacy services commission.
(4) For research conducted in accordance with IC 16-39-5-3 and the rules of the division of mental health and addiction, the rules of the division of disability and rehabilitative services, or the rules of the provider.
(5) To the division of mental health and addiction for the purpose of data collection, research, and monitoring managed
care providers (as defined in IC 12-7-2-127(b)) who are operating under a contract with the division of mental health and addiction.

(6) To the extent necessary to make reports or give testimony required by the statutes pertaining to admissions, transfers, discharges, and guardianship proceedings.

(7) To a law enforcement agency if any of the following conditions are met:
   (A) A patient escapes from a facility to which the patient is committed under IC 12-26.
   (B) The superintendent of the facility determines that failure to provide the information may result in bodily harm to the patient or another individual.
   (C) A patient commits or threatens to commit a crime on facility premises or against facility personnel.
   (D) A patient is in the custody of a law enforcement officer or agency for any reason and:
      (i) the information to be released is limited to medications currently prescribed for the patient or to the patient's history of adverse medication reactions; and
      (ii) the provider determines that the release of the medication information will assist in protecting the health, safety, or welfare of the patient.

   Mental health records released under this clause must be maintained in confidence by the law enforcement agency receiving them.

(8) To a coroner or medical examiner, in the performance of the individual's duties.

(9) To a school in which the patient is enrolled if the superintendent of the facility determines that the information will assist the school in meeting educational needs of a person with a disability under 20 U.S.C. 1400 et seq.

(10) To the extent necessary to satisfy reporting requirements under the following statutes:
   (A) IC 12-10-3-10.
   (B) IC 12-24-17-5.
   (C) IC 16-41-2-3.
   (D) IC 31-33-5-4.
   (E) IC 34-30-16-2.
   (F) IC 35-46-1-13.

(11) To the extent necessary to satisfy release of information requirements under the following statutes:
   (A) IC 12-24-11-2.
   (B) IC 12-24-12-3, IC 12-24-12-4, and IC 12-24-12-6.
   (C) IC 12-26-11.

(12) To another health care provider in a health care emergency.

(13) For legitimate business purposes as described in IC 16-39-5-3.

(14) Under a court order under IC 16-39-3.

(15) With respect to records from a mental health or developmental disability facility, to the United States Secret Service if the following conditions are met:
   (A) The request does not apply to alcohol or drug abuse records described in 42 U.S.C. 290dd-2 unless authorized by a court order under 42 U.S.C. 290dd-2(b)(2)(c).
   (C) The request specifies an individual patient.
   (D) The director or superintendent of the facility determines that disclosure of the mental health record may be necessary to protect a person under the protection of the United States Secret Service from serious bodily injury or death.
   (E) The United States Secret Service agrees to only use the mental health record information for investigative purposes and not disclose the information publicly.

(16) To the statewide waiver ombudsman established under IC 12-11-13, in the performance of the ombudsman's duties.

(17) After information is disclosed under subsection (a)(15) and if the patient is evaluated to be dangerous, the records shall be interpreted in consultation with a licensed mental health professional on the staff of the United States Secret Service.

(18) A person who discloses information under subsection (a)(7) or (a)(15) in good faith is immune from civil and criminal liability.

SECTION 92. IC 16-40-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as provided in subsection (b), each:
   (1) physician;
   (2) superintendent of a hospital;
   (3) director of a local health department;
   (4) director of a county office of family and children;
   (5) director of the division of disability services;
   (6) superintendent of a state institution serving the handicapped;
   or
   (7) superintendent of a school corporation;
who diagnoses, treats, provides, or cares for a person with a disability shall report the disabling condition to the state department within sixty (60) days.

(b) Each:
   (1) physician holding an unlimited license to practice medicine;
   or
   (2) optometrist licensed under IC 25-24-1;
shall file a report regarding a blind or visually impaired person with the office of the secretary of family and social services in accordance with IC 12-12-9.

SECTION 93. IC 20-26-11-2.5, AS ADDED BY SEA 39-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.5. (a) In the case of a student described in section 2(3) of this chapter, the:
   (1) parent granted physical custody by a court; or
   (2) student, if the student is at least eighteen (18) years of age; may, not later than fourteen (14) days before the first student day of the school year, elect for the student to have legal settlement in the school corporation whose attendance area contains the residence of the student's mother or the school corporation whose attendance area contains the resident residence of the student's father.

(b) An election under subsection (a) may be made only on a yearly basis.

(c) The parent or student who makes an election under subsection (a) is not required to pay transfer tuition.

SECTION 94. IC 20-26-11-8, AS AMENDED BY P.L.89-2005, SECTION 4, AND AS AMENDED BY P.L.231-2005, SECTION 33, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) A student who is placed in a state licensed private or public health care facility, child care facility, or foster family home:
   (1) by or with the consent of the division of family and children;
   (2) by a court order;
   or
   (3) by a child placing agency licensed by the division of family and children;
may attend school in the school corporation in which the home or facility is located. If the school corporation in which the home or facility is located is not the school corporation in which the student has legal settlement, the school corporation in which the student has legal settlement shall pay the transfer tuition of the student.

(b) A student who is placed in a state licensed private or public health care or child care facility by a parent may attend school in the school corporation in which the facility is located if:
   (1) the placement is necessary for the student's physical or emotional health and well-being and, if the placement is in a health care facility, is recommended by a physician; and
   (2) the placement is projected to be for not less than fourteen (14) consecutive calendar days or a total of twenty (20) calendar days.

The school corporation in which the student has legal settlement shall pay the transfer tuition of the student. The parent of the student shall
notify the school corporation in which the facility is located and the
school corporation of the student's legal settlement, if identifiable, of
the placement. Not later than thirty (30) days after this notice, the
school corporation of legal settlement shall either pay the transfer
tuition of the transferred student or appeal the payment by notice to
the department. The acceptance or notice of appeal by the school
corporation must be given by certified mail to the parent or guardian
of the student and any affected school corporation. In the case of a
student who is not identified as disabled under IC 20-35, the state
board shall make a determination on transfer tuition according to the
procedures in section 15 of this chapter. In the case of a student who
has been identified as disabled under IC 20-35, the determination on
transfer tuition shall be made under this subsection and the
procedures adopted by the state board under IC 20-35-2-1(b)(5).

(c) A student who is placed in:
(1) an institution operated by the division of disability and
rehabilitative services or the division of mental health and
addiction; or
(2) an institution, a public or private facility, a home, a group
home, or an alternative family setting by the division of
mental health and addiction;
may attend school in the school corporation in which the institution
is located. The state shall pay the transfer tuition of the student, unless
another entity is required to pay the transfer tuition as a result of a
placement described in subsection (a) or (b) or another state is
obligated to pay the transfer tuition.

(d) A student:
(1) who is placed in a facility, home, or institution described in
subsection (a), (b), or (c); and
(2) for whom there is no other entity or person required to pay
transfer tuition;
may attend school in the school corporation in which the facility,
home, or institution is located. The department shall conduct an
investigation and determine whether any other entity or person is
required to pay transfer tuition. If the department determines that
no other entity or person is required to pay transfer tuition, the state
shall pay the transfer tuition for the student out of the funds
appropriated for tuition support.

SECTION 95. IC 20-34-3-15, AS ADDED BY P.L.1-2005,
SECTION 18, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2006]; Sec. 15. (a) Whenever the test required
under section 14 of this chapter discloses that the hearing of a student
is impaired and the student cannot be taught advantageously in
regular classes, the governing body of the school corporation shall
provide appropriate remedial measures and correctional devices. The
governing body shall advise the student's parent of the proper medical
care, attention, and treatment needed. The governing body shall
provide approved mechanical auditory devices and prescribe courses
in lip reading by qualified, competent, and approved instructors.
The state superintendent and the director of the rehabilitation
services bureau of the division of disability and rehabilitative services
shall:
(1) cooperate with school corporations to provide assistance
under this section; and
(2) provide advice and information to assist school corporations
in complying with this section.

The governing body may adopt rules for the administration of this
section.

(b) Each school corporation may receive and accept bequests and
donations for immediate use or as trusts or endowments to assist in
meeting costs and expenses incurred in complying with this section.
When funds for the full payment of the expenses are not otherwise
available in a school corporation, an unexpended balance in the state
treasury that is available for the use of local schools and is otherwise
unappropriated may be loaned to the school corporation for that
purpose by the governor. A loan made by the governor under this
section shall be repaid to the fund in the state treasury from which the
loan came not more than two (2) years after the date it was advanced.
Loans under this section shall be repaid through the levying of taxes
in the borrowing school corporation.

SECTION 96. IC 20-35-2-1, AS ADDED BY P.L.218-2005,
SECTION 79, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2006]; Sec. 1. (a) There is established under
the state board a division of special education. The division shall
exercise all the power and duties set out in this chapter, IC 20-35-3
through IC 20-35-6, and IC 20-35-8.

(b) The governor shall appoint, upon the recommendation of the
state superintendent, a director of special education who serves at the
pleasure of the governor. The amount of compensation of the director
shall be determined by the budget agency with the approval of the
governor. The director has the following duties:

(1) To do the following:
(A) Have general supervision of all programs, classes, and
schools for children with disabilities, including those
conducted by public schools, the Indiana School for the
Blind and Visually Impaired, the Indiana School for the
Deaf, the department of correction, the state department
of health, the division of disability and rehabilitative
services, and the division of mental health and addiction.
(B) Coordinate the work of schools described in clause (A).
For programs for preschool children with disabilities as required
under IC 20-35-4-9, have general supervision over programs,
classes, and schools, including those conducted by the schools
or other state or local service providers as contracted for under
the school corporation. However, general supervision does not include
the determination of admission standards for the state
departments, boards, or agencies authorized to provide
programs or classes under this chapter.

(2) To adopt, with the approval of the state board, rules
governing the curriculum and instruction, including licensing of
personnel in the field of education, as provided by law.

(3) To inspect and rate all schools, programs, or classes for
children with disabilities to maintain proper standards of
personnel, equipment, and supplies.

(4) With the consent of the state superintendent and the budget
agency, to appoint and determine salaries for any assistants and
other personnel needed to enable the director to accomplish the
duties of the director's office.

(5) To adopt, with the approval of the state board, the
following:
(A) Rules governing the identification and evaluation of
children with disabilities and their placement under an
individualized education program in a special education
program.
(B) Rules protecting the rights of a child with a disability and
the parents of the child with a disability in the identification,
evaluation, and placement process.

(6) To make recommendations to the state board concerning
standards and case load ranges for related services to assist each
teacher in meeting the individual needs of each child according
to that child's individualized education program. The
recommendations may include the following:
(A) The number of teacher aides recommended for each
classroom in the class size ranges.
(B) The role of the teacher aide.
(C) Minimum training recommendations for teacher aides
and recommended procedures for the supervision of teacher aides.

(7) To cooperate with the interagency coordinating council
established by IC 12-17-15-7 to ensure that the preschool
special education programs required IC 20-35-4-9 are consistent
with the early intervention services program described in
IC 12-17-15.

(c) The director or the state board may exercise authority over
vocational programs for children with disabilities through a letter of
agreement with the department of workforce development.

SECTION 97. IC 20-35-3-1, AS ADDED BY P.L.218-2005,
SECTION 80, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2006]; Sec. 1. (a) The state superintendent
shall appoint a state advisory council on the education of children
with disabilities. The state advisory council's duties consist of
providing policy guidance concerning special education and related
services for children with disabilities. The state superintendent shall
appoint at least seventeen (17) members who serve for a term of four
to the state advisory council are required for the state advisory council to take action.

SECTION 98. IC 20-35-4-10, AS AMENDED BY HEA 1040-2006, SECTION 335, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) For purposes of this section, "comprehensive plan" means a plan for educating the following:
(1) All children with disabilities that a school corporation is required to educate under sections 8 through 9 of this chapter.  
(2) The additional children with disabilities that the school corporation elects to educate.
(b) For purposes of this section, "school corporation" includes the following:
(1) The Indiana School for the Blind and Visually Impaired board.  
(2) The Indiana School for the Deaf board.  
(c) The state board shall adopt rules under IC 4-22-2 detailing the contents of the comprehensive plan. Each school corporation shall complete and submit to the state superintendent a comprehensive plan. School corporations operating cooperative or joint special education services may submit a single comprehensive plan. In addition, if a school corporation enters into a contractual agreement as permitted under section 9 of this chapter, the school corporation shall collaborate with the service provider in formulating the comprehensive plan.
(d) Notwithstanding the age limits set out in IC 20-35-1-2, the state board may:
(1) conduct a program for the early identification of children with disabilities, between the ages of birth and less than twenty-two (22) years of age not served by the public schools or through a contractual agreement under section 9 of this chapter; and  
(2) use agencies that serve children with disabilities other than the public schools.
(e) The state board shall adopt rules under IC 4-22-2 requiring the:
(1) department of correction;  
(2) state department of health;  
(3) division of disability services and rehabilitative services;  
(4) Indiana School for the Blind and Visually Impaired board;  
(5) Indiana School for the Deaf board; and  
(6) division of mental health and addiction;  
(d) To submit to the state superintendent a plan for the provision of special education for children in programs administered by each respective agency who are entitled to a special education.
(f) The state superintendent shall furnish professional consultant services to school corporations and the entities listed in subsection (e) to aid them in fulfilling the requirements of this section.
SECTION 99. IC 20-35-7-4, AS ADDED BY P.L.1-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. As used in this chapter, "public agency" means a public or private entity that has direct or delegated authority to provide special education and related services, including the following:
(1) Public school corporations that operate programs individually or cooperatively with other school corporations.  
(2) Community agencies operated or supported by the office of the secretary of family and social services.  
(3) State developmental centers operated by the division of disability services and rehabilitative services.  
(4) State hospitals operated by the division of mental health and addiction.  
(5) State schools and programs operated by the state department of health.  
(6) Programs operated by the department of correction.  
(7) Private schools and facilities that serve students referred or placed by a school corporation, the division of special education, the division of family and children, or other public entity.
SECTION 100. IC 20-35-7-8, AS ADDED BY P.L.1-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) The division of disability services and rehabilitative services, the division of mental health and addiction, and the department of workforce development shall
provide each school corporation with written material describing the following:

(1) The adult services available to students.
(2) The procedures to be used to access those services.

(b) The material shall be provided in sufficient numbers to allow each student and, if the student's parent is involved, each student's parent to receive a copy at the annual case review if the purpose of the meeting is to discuss transition services.

SECTION 101. IC 20-35-7-11, AS ADDED BY P.L.1-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 11. (a) The division shall monitor public agency compliance with the requirements of this chapter as part of the division's ongoing program monitoring responsibilities.

(b) The division of disability and rehabilitative services shall monitor compliance with this chapter by vocational rehabilitation services programs.

(c) The division and the division of disability and rehabilitative services shall confer, at least annually, to do the following:

(1) Review compliance with the requirements of this chapter.
(2) Ensure that students with disabilities are receiving appropriate and timely access to services.

SECTION 102. IC 20-35-8-2, AS ADDED BY P.L.218-2005, SECTION 82. IS. AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 2. (a) The state board shall adopt rules under IC 4-22-2 to establish limits on the amount of transportation that may be provided in the student's individualized education program. Unless otherwise specially shown to be essential by the child's individualized education program, in case of residency in a public or private facility, these rules must limit the transportation required by the student's individualized education program to the following:

(1) The student's first entrance and final departure each school year.
(2) Round trip transportation each school holiday period.
(3) Two (2) additional round trips each school year.

(b) If a student is a transfer student receiving special education in a public school, the state or school corporation responsible for the payment of transfer tuition under IC 20-26-11-4 through IC 20-26-11-4 shall pay the cost of transportation required by the student's individualized education program. However, if a transfer student was counted as an eligible student for purposes of a distribution in a calendar year under IC 21-3-3.1, the transportation costs that the transferee school may charge for a school year ending in the calendar year shall be reduced by the sum of the following:

(1) The quotient of:
   (A) the amount of money that the transferee school is eligible to receive under IC 21-3-3.1-2.1 for the calendar year in which the school year ends; divided by
   (B) the number of eligible students for the transferee school for the calendar year (as determined under IC 21-3-3.1-2.1).

(2) The amount of money that the transferee school is eligible to receive under IC 21-3-3.1-4 for the calendar year in which the school year ends for the transportation of the transfer student during the school year.

(c) If a student receives a special education:

(1) in a facility operated by:
   (A) the state department of health;
   (B) the division of disability and rehabilitative services; or
   (C) the division of mental health and addiction;
(2) at the Indiana School for the Blind and Visually Impaired; or
(3) at the Indiana School for the Deaf;

the school corporation in which the student has legal settlement shall pay the cost of transportation required by the student's individualized education program. However, if the student's legal settlement cannot be ascertained, the state board shall pay the cost of transportation required by the student's individualized education program.

(d) If a student is placed in a private facility under IC 20-35-6-2 in order to receive a special education because the student's school corporation cannot provide an appropriate special education program, the school corporation in which the student has legal settlement shall pay the cost of transportation required by the student's individualized education program. However, if the student's legal settlement cannot be ascertained, the state board shall pay the cost of transportation required by the student's individualized education program.

SECTION 103. IC 22-1-5-2, AS ADDED BY P.L.212-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "companion type services" refers to services described in IC 22-26-11-4.

SECTION 104. IC 22-3-2-2.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 2. (a) As used in this section, "volunteer worker" means a person who:

(1) performs services:
   (A) for a state institution (as defined in IC 12-7-2-184); and
   (B) for which the person does not receive compensation of any nature; and

(2) has been approved and accepted as a volunteer worker by the director of:
   (A) the division of disability and rehabilitative services; or
   (B) the division of mental health and addiction.

(b) Services of any nature performed by a volunteer worker for a state institution (as defined in IC 12-7-2-184) are governmental services. A volunteer worker is subject to the medical benefits described under this chapter through IC 22-3-6. However, a volunteer worker is not under this chapter through IC 22-3-6.

SECTION 105. IC 22-3-12-2, AS ADDED BY P.L.2-2005, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]; Sec. 2. When any compensable injury requires the filing of a first report of injury by an employer, the employer's worker's compensation insurance carrier or the self-insured employer shall forward a copy of the report to the central office of the division of disability and rehabilitative services, rehabilitation services bureau at the earlier of the following occurrences:

(1) When the compensable injury has resulted in temporary total disability of longer than twenty-four (24) days.

(2) When it appears that the compensable injury may be of such a nature as to permanently prevent the injured employee from returning to the injured employee's previous employment.

SECTION 106. IC 25-22.5-1-2, AS AMENDED BY P.L.212-2005, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) This article, as it relates to the unlawful or unauthorized practice of medicine or osteopathic medicine, does not apply to any of the following:

(1) A student in training in a medical school approved by the board, or while performing duties as an intern or a resident in a hospital under the supervision of the hospital's staff or in a program approved by the medical school.

(2) A person who renders service in case of emergency where no fee or other consideration is contemplated, charged, or received.

(3) A paramedic (as defined in IC 16-18-2-266), an emergency medical technician-basic advanced (as defined in IC 16-18-2-112.5), an emergency medical technician-intermediate (as defined in IC 16-18-2-112.7), an emergency medical technician (as defined in IC 16-18-2-112), or a person with equivalent certification from another state who renders advanced life support (as defined in IC 16-18-2-7) or basic life support (as defined in IC 16-18-2-33.5):
   (A) during a disaster emergency declared by the governor under IC 10-14-3-12 in response to an act that the governor in good faith believes to be an act of terrorism (as defined in IC 35-41-1-26.5); and
   (B) in accordance with the rules adopted by the Indiana emergency medical services commission or the disaster emergency declaration of the governor.

(4) Commissioned medical officers or medical service officers of the armed forces of the United States, the United States Public Health Service, and medical officers of the United States Department of Veterans Affairs in the discharge of their official duties in Indiana.
(5) An individual who is not a licensee who resides in another state or country and is authorized to practice medicine or osteopathic medicine there, who is called in for consultation by an individual licensed to practice medicine or osteopathic medicine in Indiana.

(6) A person administering a domestic or family remedy to a member of the person’s family.

(7) A member of a church practicing the religious tenets of the church if the member does not make a medical diagnosis, prescribe or administer drugs or medicines, perform surgical or physical operations, or assume the title of or profess to be a physician.

(8) A school corporation and a school employee who acts under IC 34-30-14 (or IC 34-4.165-3.5 before its repeal).

(9) A chiropractor practicing the chiropractor’s profession under IC 25-10 or to an employee of a chiropractor acting under the direction and supervision of the chiropractor under IC 25-10-1-13.

(10) A dental hygienist practicing the dental hygienist’s profession under IC 25-13.

(11) A dentist practicing the dentist’s profession under IC 25-14.

(12) A hearing aid dealer practicing the hearing aid dealer’s profession under IC 25-20.

(13) A nurse practicing the nurse’s profession under IC 25-23. However, a registered nurse may administer anesthesia if the registered nurse acts under the direction of and in the immediate presence of a physician and holds a certificate of completion of a course in anesthesia approved by the American Association of Nurse Anesthetists or a course approved by the board.

(14) An optometrist practicing the optometrist’s profession under IC 25-24.

(15) A pharmacist practicing the pharmacist’s profession under IC 25-26.

(16) A physical therapist practicing the physical therapist’s profession under IC 25-27.

(17) A podiatrist practicing the podiatrist’s profession under IC 25-29.

(18) A psychologist practicing the psychologist’s profession under IC 25-33.

(19) A speech-language pathologist or audiologist practicing the pathologist’s or audiologist’s profession under IC 25-35.6.

(20) An employee of a physician or group of physicians who performs an act, a duty, or a function that is customarily within the specific area of practice of the employing physician or group of physicians, if the act, duty, or function is performed under the direction and supervision of the employing physician or a physician of the employing group within whose area of practice the act, duty, or function falls. An employee may not make a diagnosis or prescribe a treatment and must report the results of an examination of a patient conducted by the employee to the employing physician or the physician of the employing group under whose supervision the employee is working. An employee may not administer medication without the specific order of the employing physician or a physician of the employing group. Unless an employee is licensed or registered to independently practice in a profession described in subdivisions (9) through (18), nothing in this subsection grants the employee independent practitioner status or the authority to perform patient services in an independent practice in a profession.

(21) A hospital licensed under IC 16-21 or IC 12-25.

(22) A health care organization whose members, shareholders, or partners are individuals, partnerships, corporations, facilities, or institutions licensed or legally authorized by this state to provide health care or professional services as:

(A) a physician;
(B) a psychiatric hospital;
(C) a hospital;
(D) a health maintenance organization or limited service health maintenance organization;
(E) a health facility;
(F) a dentist;
(G) a registered or licensed practical nurse;
(H) a midwife;
(I) an optometrist;
(J) a podiatrist;
(K) a chiropractor;
(L) a physical therapist; or
(M) a psychologist.

(23) A physician assistant practicing the physician assistant’s profession under IC 25-27.5.

(24) A physician providing medical treatment under IC 25-22.5-1-21.

(25) An attendant who provides attendant care services (as defined in IC 16-18-2-28.5).

(26) A personal services attendant providing authorized attendant care services under IC 12-10-17.1.

(b) A person described in subsection (a)(9) through (a)(18) is not excluded from the application of this article if:

(1) the person performs an act that an Indiana statute does not authorize the person to perform; and

(2) the act qualifies in whole or in part as the practice of medicine or osteopathic medicine.

(c) An employment or other contractual relationship between an entity described in subsection (a)(21) through (a)(22) and a licensed physician does not constitute the unlawful practice of medicine under this article if the entity does not direct or control independent medical acts, decisions, or judgments of the licensed physician. However, if the direction or control is done by the entity under IC 34-30-15 (or IC 34-4.12-6 before its repeal), the entity is excluded from the application of this article as it relates to the unlawful practice of medicine or osteopathic medicine.

(d) This subsection does not apply to a prescription or drug order for a legend drug that is filled or refilled in a pharmacy owned or operated by a hospital licensed under IC 16-21. A physician licensed in Indiana who permits or authorizes a person to fill or refill a prescription or drug order for a legend drug except as authorized in IC 16-42-19-11 through IC 16-42-19-19 is subject to disciplinary action under IC 25-1-9. A person who violates this subsection commits the unlawful practice of medicine under this chapter.

(e) A person described in subsection (a)(8) shall not be authorized to dispense contraceptives or birth control devices.

SECTION 107. IC 25-23-1-27.1, AS AMENDED BY P.L.212-2005, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]; Sec. 27.1. (a) As used in this section, "licensed health professional" means:

(1) a registered nurse;
(2) a licensed practical nurse;
(3) a physician with an unlimited license to practice medicine or osteopathic medicine;
(4) a licensed dentist;
(5) a licensed chiropractor;
(6) a licensed optometrist;
(7) a licensed pharmacist;
(8) a licensed physical therapist;
(9) a licensed psychologist;
(10) a licensed podiatrist; or
(11) a licensed speech-language pathologist or audiologist.

(b) This chapter does not prohibit:

(1) furnishing nursing assistance in an emergency;
(2) the practice of nursing by any student enrolled in a board approved nursing education program where such practice is incidental to the student's program of study;
(3) the practice of any nurse who is employed by the government of the United States or any of its bureaus, divisions, or agencies while in the discharge of the nurse's official duties;
(4) the gratuitous care of sick, injured, or infirm individuals by friends or the family of that individual;
(5) the care of the sick, injured, or infirm in the home for compensation if the person assists only:

(A) with personal care;
(B) in the administration of a domestic or family remedy; or
(C) in the administration of a remedy that is ordered by a licensed health professional and that is within the scope of practice of the licensed health professional under Indiana law;
(6) performance of tasks by persons who provide health care
services which are delegated or ordered by licensed health professionals, if the delegated or ordered tasks do not exceed the scope of practice of the licensed health professionals under Indiana law;

(7) a physician with an unlimited license to practice medicine or osteopathic medicine in Indiana, a licensed dentist, chiropractor, dental hygienist, optometrist, pharmacist, physical therapist, podiatrist, psychologist, speech-language pathologist, or audiologist from practicing the person's profession;

(8) a school corporation or school employee from acting under IC 34-30-14;

(9) a personal services attendant from providing authorized attendant care services under IC 12-10-17.1 or an attendant who provides attendant care services (as defined in IC 16-18-2-28.5).

SECTION 108. IC 25-23.6-1-3.9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3.9. "Governmental employee" means an individual employed by the office of the Secretary of State whose primary duties consist of serving in a governmental capacity.

(1) The standards adopted under section 7 of this chapter.

(2) The requirement that an insurer or other person who issues a qualified long term care policy must at a minimum offer to each policyholder or prospective policyholder a policy that provides both:

(A) long term care facility coverage; and

(B) home and community care coverage.

(3) A provision that an insurer or other person who complies with subdivision (2) may elect to also offer a qualified long term care policy that provides only long term care facility coverage.

(4) The submission of data by insurers that will allow the Department of Insurance to establish standards for the qualification of a long term care policy under IC 12-15-39.6.

The rules must include the following:

(1) The standards adopted under section 7 of this chapter.

(2) The requirement that an insurer or other person who issues a qualified long term care policy must at a minimum offer to each policyholder or prospective policyholder a policy that provides both:

(A) long term care facility coverage; and

(B) home and community care coverage.

(3) A provision that an insurer or other person who complies with subdivision (2) may elect to also offer a qualified long term care policy that provides only long term care facility coverage.

(4) The submission of data by insurers that will allow the Department of Insurance to establish standards for the qualification of a long term care policy under IC 12-15-39.6.

(5) Other standards needed to administer the Indiana long term care program.

SECTION 110. IC 29-3-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. The chief of social services (or a person designated by the chief of social services) at any institution under the control of the division of mental health and addiction or the division of disability aging and rehabilitative services may execute the necessary documents to make applications on behalf of a patient in the institution to receive public assistance or to transfer the patient to an alternate care facility without the appointment of a guardian or other order of court.

SECTION 111. IC 34-30-2-43.9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 43.9. IC 12-10-17.1(b) IC 12-10-17.1-14(b) (Concerning actions of a personal services attendant).
shall make available a full copy of an autopsy report, other than a photograph, video recording, or audio recording of the autopsy, upon the written request of:

1. the director of the division of disability aging and rehabilitative services established by IC 12-9-1-1; or
2. the director of the division of mental health and addiction established by IC 12-21-1-1; or
3. the director of the division of aging established by IC 12-9.1-1-1;

in connection with a division's review of the circumstances surrounding the death of an individual who received services from a division or through a division at the time of the individual's death.

SECTION 114. [EFFECTIVE JULY 1, 2006] (a) As used in this SECTION, "program" refers to the self-directed in-home care program under IC 12-10-17.1, as added by this act.

(b) The office of the secretary of family and social services established by IC 12-8-1-1 shall submit a report in electronic format under IC 5-14-6 to the legislative council before November 1, 2009, concerning the:

1. implementation; and
2. outcome;

of the program.

(c) This SECTION expires December 31, 2010.

SECTION 115. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 12-10-17; IC 12-24-1-10.

SECTION 116. [EFFECTIVE JULY 1, 2006] (a) The office of Medicaid policy and planning shall do the following:

1. Study possible changes to the state Medicaid program or other new programs that would limit or restrict a future increase in the number of Medicaid recipients in health facilities licensed under IC 16-28.
2. Prepare a comprehensive cost comparison of Medicaid and Medicaid waiver services and other expenditures in the following settings:
   (A) Home care.
   (B) Community care.
   (C) Health facilities.

The cost comparison must include a comparison of similar services that are provided in the different settings.

(b) Before October 1, 2006, the office of Medicaid policy and planning shall report its findings under subsection (a) to the select joint commission on Medicaid oversight established by IC 2-5-26-3.

(c) This SECTION expires January 1, 2007.

SECTION 117. An emergency is declared for this act.

(Reference is to ESB 41 as reprinted February 17, 2006.)

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<th>Miller</th>
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The conference committee report was filed and read a first time.

OTHER BUSINESS ON THE SPEAKER'S TABLE

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has concurred in the House amendments to Engrossed Senate Bills 338 and 339.

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 1212.

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 84.

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 296.

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 362.

MARY C. MENDEL
Principal Secretary of the Senate

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Tuesday, March 14, 2006 at 9:00 a.m.

T. BROWN
Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Wolkins, the House adjourned at 11:35 p.m., this thirteenth day of March, 2006, until Tuesday, March 14, 2006, at 9:00 a.m.

BRIAN C. BOSMA
Speaker of the House of Representatives

M. CAROLINE SPOTTS
Principal Clerk of the House of Representatives

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has accepted and approved the Conference Committee Report 1 on Engrossed Senate Bills 12, 77, 106, 112, 202, 266, 284, 305, 321, 340, and 355.

MARY C. MENDEL
Principal Secretary of the Senate