

SENATE BILL No. 484

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-6-10; IC 10-14; IC 13-11-2; IC 13-25; IC 21-39-7-7.

Synopsis: Fire and emergency response issues. Creates the intrastate mutual aid compact to complement existing mutual aid agreements. Allows the Indiana department of homeland security (IDHS) to deploy a national urban search and rescue response system task force as a state resource during Indiana emergencies and disasters, in conformance with federal requirements, through an agreement with a political subdivision that is a sponsoring agency of a task force. Repeals the interstate emergency management and disaster compact. Repeals the local emergency planning and right to know fund administered by the department of state revenue. Creates the local emergency planning and right to know fund administered by the IDHS, for the purpose of providing each county with funds to help implement the Superfund Amendments and Reauthorization Act of 1986 (SARA). Requires fees paid by facilities submitting tier II emergency and hazardous chemical inventories to be paid to the Indiana emergency response commission for deposit in the local emergency planning and right to know fund. Provides that on July 1, 2015, any remaining balance of the local emergency planning and right to know fund administered by the department of state revenue is transferred to the local emergency planning and right to know fund administered by the IDHS.

Effective: July 1, 2015.

Crider

January 14, 2015, read first time and referred to Committee on Homeland Security & Transportation.



First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 484

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-6-10 IS REPEALED [EFFECTIVE JULY 1,
- 2 2015]. (Local Emergency Planning and Right to Know Fund).
- 3 SECTION 2. IC 10-14-3-9 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) The agency shall
- 5 prepare and maintain a current state emergency operations plan. The
- 6 plan may provide for the following:
- 7 (1) Prevention and minimization of injury and damage caused by
- 8 disaster.
- 9 (2) Prompt and effective response to disaster.
- 10 (3) Emergency relief.
- 11 (4) Identification of areas particularly vulnerable to disaster.
- 12 (5) Recommendations for:
- 13 (A) zoning;
- 14 (B) building;
- 15 (C) other land use controls;
- 16 (D) safety measures for securing mobile homes or other



- 1 nonpermanent or semipermanent structures; and
 2 (E) other preventive and preparedness measures designed to
 3 eliminate or reduce disaster or its impact;
 4 that must be disseminated to both the fire prevention and building
 5 safety commission and local authorities.
 6 (6) Assistance to local officials in designing local emergency
 7 action plans.
 8 (7) Authorization and procedures for the erection or other
 9 construction of temporary works designed to protect against or
 10 mitigate danger, damage, or loss from flood, conflagration, or
 11 other disaster.
 12 (8) Preparation and distribution to the appropriate state and local
 13 officials of state catalogs of federal, state, and private assistance
 14 programs.
 15 (9) Organization of manpower and chains of command.
 16 (10) Coordination of federal, state, and local disaster activities.
 17 (11) Coordination of the state disaster plan with the disaster plans
 18 of the federal government.
 19 (12) Other necessary matters.
 20 (b) The agency shall take an integral part in the development and
 21 revision of local and interjurisdictional disaster plans prepared under
 22 section 17 of this chapter. The agency shall employ or otherwise secure
 23 the services of professional and technical personnel capable of
 24 providing expert assistance to political subdivisions, a political
 25 subdivision's disaster agencies, and interjurisdictional planning and
 26 disaster agencies. These personnel:
 27 (1) shall consult with subdivisions and government agencies on
 28 a regularly scheduled basis;
 29 (2) shall make field examinations of the areas, circumstances, and
 30 conditions to which particular local and interjurisdictional
 31 disaster plans are intended to apply; and
 32 (3) may suggest revisions.
 33 (c) In preparing and revising the state disaster plan, the agency shall
 34 seek the advice and assistance of local government, business, labor,
 35 industry, agriculture, civic and volunteer organizations, and community
 36 leaders. In advising local and interjurisdictional agencies, the agency
 37 shall encourage local and interjurisdictional agencies to seek advice
 38 from the sources specified in this subsection.
 39 (d) The state disaster plan or any part of the plan may be
 40 incorporated in rules of the agency or by executive orders.
 41 (e) The agency shall do the following:
 42 (1) Determine requirements of the state and political subdivisions



- 1 for food, clothing, and other necessities in the event of an
 2 emergency.
- 3 (2) Procure and pre-position supplies, medicines, materials, and
 4 equipment.
- 5 (3) Adopt standards and requirements for local and
 6 interjurisdictional disaster plans.
- 7 (4) Provide for mobile support units.
- 8 (5) Assist political subdivisions, political subdivisions' disaster
 9 agencies, and interjurisdictional disaster agencies to establish and
 10 operate training programs and public information programs.
- 11 (6) Make surveys of industries, resources, and facilities in
 12 Indiana, both public and private, necessary to carry out this
 13 chapter.
- 14 (7) Plan and make arrangements for the availability and use of
 15 any private facilities, services, and property, and if necessary and
 16 if the private facilities, services, or property is used, provide for
 17 payment for the use under agreed upon terms and conditions.
- 18 (8) Establish a register of persons with types of training and skills
 19 important in emergency prevention, preparedness, response, and
 20 recovery.
- 21 (9) Establish a register of mobile and construction equipment and
 22 temporary housing available for use in a disaster emergency.
- 23 (10) Prepare, for issuance by the governor, executive orders,
 24 proclamations, and regulations necessary or appropriate in coping
 25 with disaster.
- 26 (11) Cooperate with the federal government and any public or
 27 private agency or entity in achieving any purpose of this chapter
 28 and in implementing programs for disaster prevention,
 29 preparation, response, and recovery.
- 30 (12) Do other things necessary, incidental, or appropriate to
 31 implement this chapter.
- 32 (f) The agency shall ascertain the rapid and efficient
 33 communications that exist in times of disaster emergencies. The agency
 34 shall consider the desirability of supplementing these communications
 35 resources or of integrating these resources into a comprehensive
 36 intrastate or state-federal telecommunications or other communications
 37 system or network. In studying the character and feasibility of any
 38 system, the agency shall evaluate the possibility of multipurpose use of
 39 the system for general state and local governmental purposes. The
 40 agency shall make appropriate recommendations to the governor.
- 41 (g) The agency shall ~~develop a statewide mutual aid program to~~
 42 ~~implement the statewide mutual aid agreement.~~ **assist political**



1 **subdivisions in implementing the intrastate mutual aid compact**
 2 **created by section 10.8 of this chapter.**

3 SECTION 3. IC 10-14-3-10.6 IS REPEALED [EFFECTIVE JULY
 4 1, 2015]. Sec. 10.6. (a) As used in this section, "participating unit"
 5 refers to a unit that does not opt out under subsection (c) from
 6 participating in the statewide mutual aid program.

7 (b) As used in this section, "unit" means the following:

8 (1) A unit (as defined in IC 36-1-2-23);

9 (2) A fire protection district established under IC 36-8-11;

10 (3) A provider unit (as defined in IC 36-8-19-3) acting on behalf
 11 of a fire protection territory established under IC 36-8-19;

12 (4) A fire department established by the board of trustees of a
 13 state educational institution (as defined in IC 21-7-13-32);
 14 including a fire department established by the board of trustees of
 15 Purdue University under IC 21-39-7.

16 (c) A unit may choose not to participate in the statewide mutual aid
 17 program if the unit:

18 (1) adopts an ordinance or a resolution declaring that the unit will
 19 not participate in the statewide mutual aid program; and

20 (2) provides a copy of the ordinance or resolution to:

21 (A) the local emergency management organization that serves
 22 the unit; and

23 (B) the department.

24 (d) Each participating unit shall establish an incident management
 25 system and a unified command system to be used in a response to a
 26 disaster or an emergency.

27 (e) A participating unit may request the assistance of at least one (1)
 28 other participating unit to:

29 (1) manage disaster response or recovery; or

30 (2) conduct disaster response or recovery related exercises;
 31 testing; or training.

32 The participating unit that requests assistance shall provide a copy of
 33 the request to the emergency operations center within the division of
 34 emergency response and recovery not more than forty-eight (48) hours
 35 after making the request.

36 (f) A request for assistance to a participating unit under subsection
 37 (e) shall be made by and to the executive of the unit or the executive's
 38 authorized representative. A request may be oral or in writing. A
 39 written request shall be made on forms developed by the department.
 40 An oral request shall be confirmed in writing not later than twenty-four
 41 (24) hours after the oral request is made.

42 (g) A request must include the following information:



- 1 (1) A description of the disaster response and recovery functions
 2 for which assistance is needed, including the following:
 3 (A) Fire:
 4 (B) Law enforcement:
 5 (C) Emergency medical:
 6 (D) Transportation:
 7 (E) Communications:
 8 (F) Public works and engineering:
 9 (G) Building inspection:
 10 (H) Planning and information assistance:
 11 (I) Mass care:
 12 (J) Resource support:
 13 (K) Health and other medical services:
 14 (L) Search and rescue:
 15 (2) The amount and type of services; equipment; supplies;
 16 materials; personnel; and other resources needed and a reasonable
 17 estimate of the length of time they will be needed.
 18 (3) The specific place and time for staging of the assisting
 19 participating unit's provision of assistance and a point of contact
 20 at that location.
 21 (4) A statement that the request for assistance is being made
 22 through the statewide mutual aid program.
 23 (h) A participating unit that is requested to render assistance shall
 24 take the necessary action to provide and make available the requested
 25 services; equipment; supplies; materials; personnel; and other
 26 resources.
 27 (i) A participating unit's obligation to provide assistance is subject
 28 to the following restrictions:
 29 (1) A participating unit's request to receive assistance is effective
 30 only:
 31 (A) upon declaration of a local disaster emergency by the
 32 principal executive officer of the unit under section 29 of this
 33 chapter; or
 34 (B) upon the commencement of the exercises; testing; or
 35 training:
 36 (2) The assistance shall continue as long as:
 37 (A) the state of emergency remains in effect and the loaned
 38 resources are required by the receiving participating unit or the
 39 loaned resources remain in the receiving participating unit; or
 40 (B) the exercises; testing; or training is in progress.
 41 (3) The participating unit rendering the assistance may withhold
 42 resources or recall loaned resources to the extent necessary to



1 provide for the participating unit's own reasonable protection.

2 (4) Emergency forces providing assistance shall continue under
3 the command and control of their regular leaders; but
4 operationally those forces shall be under the control of the
5 incident commander or unified commander designated by the
6 requesting participating unit.

7 SECTION 4. IC 10-14-3-10.7 IS REPEALED [EFFECTIVE JULY
8 1, 2015]. Sec. 10.7. (a) As used in this section, "participating unit" has
9 the meaning set forth in section 10.6(a) of this chapter.

10 (b) Each participating unit shall provide for the payment of
11 compensation and benefits to:

12 (1) an injured member; and

13 (2) a representative of a deceased member;

14 of the participating unit's emergency forces if the member is injured or
15 killed while rendering assistance under section 10.6 of this chapter in
16 the same manner and on the same terms as if the injury or death were
17 sustained while the member was rendering assistance for or within the
18 member's own unit. Expenses incurred under this subsection are not
19 reimbursable under subsection (c):

20 (c) A participating unit that complies with subsection (b) and
21 renders assistance for disaster response or recovery to another
22 participating unit under section 10.6 of this chapter shall be reimbursed
23 by the participating unit receiving the assistance for the following:

24 (1) A loss of, damage to, or expense incurred in the operation of
25 any equipment in answering the request for assistance; to the
26 extent the loss, damage, or expense is not covered by a
27 reimbursement from insurance to the participating unit rendering
28 assistance.

29 (2) An expense incurred in the provision of a service in answering
30 the request for assistance; to the extent the expense is not covered
31 by a reimbursement from insurance to the participating unit
32 rendering assistance.

33 (3) An expense incurred in answering the request for assistance;
34 to the extent the expense is not covered by a reimbursement from
35 insurance to the participating unit rendering assistance.

36 (4) An amount equal to the deductible portion of an insurance
37 policy used to reimburse all or part of an expense or other cost
38 described in subdivisions (1) through (3):

39 (d) Except as provided by an agreement entered into under
40 subsection (c), the following labor and equipment reimbursement rates
41 apply to reimbursement under subsection (c):

42 (1) The labor reimbursement rates are as follows:



- 1 (A) The straight time costs of the labor force of the
 2 participating unit rendering assistance shall be reimbursed at
 3 the normal pay rates for responding personnel.
 4 (B) The overtime costs of the labor force of the participating
 5 unit rendering assistance shall be reimbursed at one hundred
 6 fifty percent (150%) of the normal pay rates for the responding
 7 personnel if it is the normal practice of the requesting unit to
 8 pay these personnel overtime.
- 9 (2) The equipment reimbursement rates are the lesser of the
 10 following:
 11 (A) The rates for equipment costs reimbursement established
 12 by the Federal Emergency Management Agency or its
 13 successor agency.
 14 (B) The equipment costs established by the participating unit
 15 rendering assistance.
- 16 (e) At least two (2) participating units may enter into agreements
 17 establishing a different allocation of loss, damage, expense, or costs
 18 among themselves than that specified in subsections (c) and (d).
 19 (f) Officers and employees of a participating unit rendering
 20 assistance to another participating unit under this section shall be
 21 considered agents of the requesting participating unit for the purpose
 22 of tort liability and immunity.
 23 (g) This section does not prevent any participating unit from
 24 entering into a mutual aid or other agreement with another unit, fire
 25 protection district, or provider unit (as defined in IC 36-8-19-3) acting
 26 on behalf of a fire protection territory, or affect any other agreement to
 27 which a unit, a fire protection district, or a fire protection territory is a
 28 party, including an agreement entered into under this chapter or
 29 IC 36-1-7.
 30 (h) A participating unit rendering assistance that seeks
 31 reimbursement under subsection (e) must submit to the participating
 32 unit receiving assistance, not more than thirty (30) days after the date
 33 on which the assistance is rendered, an itemized statement of the
 34 expenses described in subsection (e) for which the participating unit
 35 rendering assistance seeks reimbursement.
- 36 SECTION 5. IC 10-14-3-10.8 IS ADDED TO THE INDIANA
 37 CODE AS A NEW SECTION TO READ AS FOLLOWS
 38 [EFFECTIVE JULY 1, 2015]: **Sec. 10.8. (a) The following definitions**
 39 **apply to this section:**
 40 (1) "Chief executive" means:
 41 (A) the chief executive of a participant, or the chief
 42 executive's designee, for purposes of the intrastate mutual



- 1 aid compact created under this section; or
 2 (B) if the participant does not have a chief executive, a
 3 member of the participant's governing body or the
 4 governing body's designee for purposes of the intrastate
 5 mutual aid compact created under this section.
 6 (2) "Emergency management agency" means an organization
 7 for emergency management established under this chapter.
 8 (3) "Participant" means any of the following:
 9 (A) A political subdivision.
 10 (B) A volunteer fire department.
 11 (C) A fire department established by the board of trustees
 12 of a state educational institution (as defined in
 13 IC 21-7-13-32), including a fire department established by
 14 the board of trustees of Purdue University under
 15 IC 21-39-7.
 16 The term does not include an entity under clause (A), (B), or
 17 (C) that chooses to reject participation in the intrastate
 18 mutual aid program by adopting an ordinance or resolution
 19 declaring that the entity will not participate in the intrastate
 20 mutual aid program and provides a copy of the appropriate
 21 ordinance or resolution to the agency and to the emergency
 22 management agency serving the entity.
 23 (4) "Planned event" means a scheduled nonemergency
 24 activity. Planned event includes a sporting event, concert, or
 25 parade.
 26 (5) "Provider participant" means a participant that provides
 27 assistance or aid to a requesting participant under the
 28 intrastate mutual aid compact created under this section.
 29 (6) "Requesting participant" means a participant that receives
 30 assistance or aid from a provider participant under the
 31 intrastate mutual aid compact created under this section.
 32 (7) "Volunteer fire department" has the meaning set forth in
 33 IC 36-8-12-2.
 34 (b) This section creates an intrastate mutual aid program to be
 35 known as Indiana's intrastate mutual aid compact to complement
 36 existing mutual aid agreements. This program has the following
 37 two (2) purposes:
 38 (1) Provide for mutual assistance or aid among participants
 39 for purposes of preparing for, responding to, and recovering
 40 from any incident, disaster, exercise, training activity, or
 41 planned event that requires additional resources.
 42 (2) Establish a method by which a participant may seek



- 1 assistance or aid that:
- 2 (A) resolves many of the common issues facing political
- 3 subdivisions before, during, and after an incident, disaster,
- 4 exercise, training activity, or planned event, any of which
- 5 requires additional resources; and
- 6 (B) ensures, to the extent possible, eligibility for available
- 7 state and federal disaster assistance or other funding.
- 8 (c) Each participant shall, to the extent practicable, identify and
- 9 inventory the current services, equipment, supplies, personnel, and
- 10 other resources related to the preparedness, response, and
- 11 recovery activities of the participant. The participant shall perform
- 12 the identification and inventory in coordination with, to the extent
- 13 feasible, all departments, divisions, boards, commissions, agencies,
- 14 and other instrumentalities within the participant.
- 15 (d) A participant that is impacted by any incident, disaster,
- 16 exercise, training activity, or planned event that requires
- 17 additional resources may request mutual assistance or aid from
- 18 any other participant. This request shall be made by the chief
- 19 executive of the requesting participant to the chief executive of a
- 20 provider participant. If the request is made orally, the requesting
- 21 participant shall provide the provider participant with written
- 22 confirmation of the request not later than seventy-two (72) hours
- 23 after the oral request is made. A request must provide the
- 24 following information:
- 25 (1) A description of the incident, disaster, exercise, training
- 26 activity, or planned event.
- 27 (2) A description of the assistance or aid needed.
- 28 (3) An estimate of the length of time the assistance or aid will
- 29 be needed.
- 30 (4) The specific place and time for staging of the assistance or
- 31 aid and a point of contact at that location.
- 32 (5) A statement that the request for assistance is being made
- 33 through the intrastate mutual aid compact.
- 34 (e) A provider participant shall provide assistance or aid to a
- 35 requestor participant subject to the following:
- 36 (1) The provider participant may withhold resources the
- 37 provider participant determines to be necessary to provide for
- 38 the provider participant's own protection.
- 39 (2) Personnel of the provider participant shall continue under
- 40 the personnel's local command and control structure, but
- 41 shall be under the operational control of the appropriate
- 42 officials within the incident management system of the



- 1 **requesting participant.**
- 2 **(3) Law enforcement officers rendering assistance or aid**
- 3 **under this section have the same powers and duties as law**
- 4 **enforcement officers of the requesting participant, but only**
- 5 **for the period the law enforcement officers are engaged in**
- 6 **activities authorized by the requesting participant, and are**
- 7 **subject to the law as if the law enforcement officers were**
- 8 **providing services within the law enforcement officer's own**
- 9 **jurisdiction.**
- 10 **(f) Each provider participant shall provide for the payment of**
- 11 **compensation and benefits to:**
- 12 **(1) an injured member; and**
- 13 **(2) a representative of a deceased member;**
- 14 **of the provider participant's emergency forces, if the member is**
- 15 **injured or killed while rendering assistance under this section in**
- 16 **the same manner and on the same terms as if the injury or death**
- 17 **were sustained while the member was rendering assistance for or**
- 18 **within the member's own jurisdiction.**
- 19 **(g) Personnel of a provider participant shall be considered,**
- 20 **while rendering assistance or aid, or while en route to or from**
- 21 **rendering assistance or aid, to a requesting participant, to be**
- 22 **agents of the provider participant for purposes of tort liability and**
- 23 **immunity from tort liability under state law.**
- 24 **(h) If a person:**
- 25 **(1) holds a license, certificate, or other permit issued by a**
- 26 **participant evidencing qualification in a professional,**
- 27 **mechanical, or other skill; and**
- 28 **(2) provides assistance or aid at the request of a provider**
- 29 **participant;**
- 30 **the person shall be considered to be licensed or certified in or**
- 31 **permitted by the requesting participant to render the assistance or**
- 32 **aid.**
- 33 **(i) Subject to subsection (k) and except as provided in subsection**
- 34 **(j), a provider participant shall be reimbursed by the requesting**
- 35 **participant for the following:**
- 36 **(1) Any loss of or damage to, or expense incurred in the**
- 37 **operation of, any equipment used in rendering the assistance**
- 38 **or aid. To avoid duplication of payments, insurance proceeds**
- 39 **available to cover any loss of or damage to equipment of a**
- 40 **provider participant shall be considered in the reimbursement**
- 41 **by the requesting participant.**
- 42 **(2) Any expense incurred in the provision of any service used**



- 1 **in rendering the assistance or aid.**
- 2 **(3) All other costs incurred in responding to the request for**
- 3 **assistance or aid.**
- 4 **(j) A provider participant may not be reimbursed for:**
- 5 **(1) the first twelve (12) hours of mutual assistance or aid**
- 6 **provided to the requesting participant; or**
- 7 **(2) expenses the provider participant incurs under subsection**
- 8 **(f).**
- 9 **(k) A provider participant may do any of the following:**
- 10 **(1) Assume, in whole or in part, any loss, damage, expense, or**
- 11 **cost the provider participant incurs in rendering the**
- 12 **assistance or aid.**
- 13 **(2) Loan, without charge, any equipment, or donate any**
- 14 **service, to the requesting participant.**
- 15 **(3) Enter into agreements with one (1) or more other**
- 16 **participants to establish different allocations of losses,**
- 17 **damages, expenses, or costs among the participants.**
- 18 **(l) Nothing in this section does any of the following:**
- 19 **(1) Prohibits a private company from participating in the**
- 20 **provision of mutual assistance or aid under the intrastate**
- 21 **mutual aid compact created under this section if:**
- 22 **(A) the participant approves the participation; and**
- 23 **(B) the contract with the private company allows for the**
- 24 **participation.**
- 25 **(2) Precludes a participant from entering into a mutual aid or**
- 26 **other agreement with another political subdivision or**
- 27 **participant.**
- 28 **(3) Affects any other agreement to which a participant may be**
- 29 **a party or any request for assistance or aid that may be made,**
- 30 **under any other state statute.**
- 31 **SECTION 6. IC 10-14-3-19.5 IS ADDED TO THE INDIANA**
- 32 **CODE AS A NEW SECTION TO READ AS FOLLOWS**
- 33 **[EFFECTIVE JULY 1, 2015]: Sec. 19.5. (a) The following definitions**
- 34 **apply to this section:**
- 35 **(1) "Activates" or "activated" refers to the status of a task**
- 36 **force or a task force resource placed at the direction, control,**
- 37 **and funding of the agency in accordance with an agreement**
- 38 **entered into in accordance with this section.**
- 39 **(2) "Task force" means a United States Department of**
- 40 **Homeland Security national urban search and rescue**
- 41 **response system task force established under 44 CFR 208.**
- 42 **(b) The agency may enter into an agreement with a political**



1 subdivision that is a sponsoring agency of a task force to establish
 2 the terms and conditions that would be applicable if the agency
 3 activates the task force as a state resource in anticipation of or in
 4 response to an emergency or disaster. Under this agreement, the
 5 agency may reimburse the political subdivision for allowable costs
 6 and at the rates established under 44 CFR 208 and may reimburse
 7 the political subdivision for all payments for death, disability, or
 8 injury of an individual incurred in the course of duty while the
 9 individual is serving as an activated member of an activated task
 10 force.

11 (c) While an individual is serving as an activated member of an
 12 activated task force:

13 (1) if the individual is an employee of the state or a political
 14 subdivision of the state, whether serving within or outside the
 15 political subdivision, the individual:

16 (A) has the:

17 (i) powers;

18 (ii) duties;

19 (iii) rights;

20 (iv) privileges; and

21 (v) immunities;

22 that are provided for an employee of the state or a political
 23 subdivision of the state and are incidental to the
 24 individual's employment; and

25 (B) shall receive the compensation and benefits incidental
 26 to the individual's employment; and

27 (2) if the individual is not an employee of the state or a
 28 political subdivision of the state, the individual is:

29 (A) entitled to the same rights and immunities that are
 30 provided for an employee of the state; and

31 (B) notwithstanding section 15(c) of this chapter,
 32 considered to be a temporary employee of the state for
 33 purposes of:

34 (i) the worker's compensation law (IC 22-3-2 through
 35 IC 22-3-6); and

36 (ii) the worker's occupational diseases law (IC 22-3-7).

37 SECTION 7. IC 10-14-6 IS REPEALED [EFFECTIVE JULY 1,
 38 2015]. (Interstate Emergency Management and Disaster Compact).

39 SECTION 8. IC 13-11-2-120 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 120. "Local emergency
 41 planning committee", for purposes of IC 13-25-1 and IC 13-25-2,
 42 refers to a committee established under Title III of ~~SARA~~ **the federal**



1 **Superfund Amendments and Reauthorization Act of 1986** for a
2 local emergency planning district.

3 SECTION 9. IC 13-11-2-196 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 196. "SARA", for
5 purposes of IC 13-25-1 **and IC 13-25-2**, refers to Title III of the
6 **federal** Superfund Amendments and Reauthorization Act of 1986
7 (P.L.99-499).

8 SECTION 10. IC 13-25-1-6, AS AMENDED BY P.L.26-2010,
9 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2015]: Sec. 6. (a) The commission shall do the following:

11 (1) Encourage and support the development of emergency
12 planning efforts to provide:

13 (A) state government entities;

14 (B) local governments; and

15 (C) the public;

16 with information concerning potential chemical hazards in
17 Indiana.

18 (2) Assist the state in complying with the requirements of SARA.

19 (3) Design and supervise the operation of emergency planning
20 districts in Indiana.

21 (4) Gather and distribute information needed for effective
22 emergency response planning.

23 (b) A local emergency planning committee shall do the following:

24 (1) Satisfy the requirements of SARA.

25 (2) Prepare and submit a roster of committee members to the
26 commission at least one (1) time each year.

27 (3) Meet at least two (2) times, on separate days, every six (6)
28 months.

29 (4) **Each year** prepare and submit ~~the a report required under~~
30 ~~IC 6-6-10-8. to the commission that describes the expenditures~~
31 **of the local emergency planning committee in the preceding**
32 **year that were paid for with the money distributed under**
33 **IC 13-25-2-10.6.**

34 (c) A local emergency planning committee member who is an
35 employee of a unit (as defined in IC 36-1-2-23) may appoint a designee
36 to act on the committee member's behalf under this chapter. An
37 appointment under this subsection must:

38 (1) be in writing;

39 (2) specify the duration of the appointment; and

40 (3) be submitted to the committee at least two (2) calendar days
41 before the first meeting that the designee attends on behalf of the
42 member.



1 SECTION 11. IC 13-25-2-9 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) ~~The owner or~~
 3 ~~operator of a facility that is required to prepare or have available a~~
 4 ~~material safety data sheet for a hazardous chemical under the federal~~
 5 ~~Occupational Safety and Health Act (29 U.S.C. 651 through 658) and~~
 6 ~~regulations adopted under the Act shall prepare and submit an~~
 7 ~~emergency and hazardous chemical inventory form to each of the~~
 8 ~~following:~~

- 9 (1) ~~The appropriate local emergency planning committee;~~
 10 (2) ~~The commission;~~
 11 (3) ~~The fire department that has jurisdiction over the facility.~~

12 **A tier II emergency and hazardous chemical inventory form**
 13 **required to be submitted under section 10 of this chapter must**
 14 **provide the following information for each hazardous chemical**
 15 **present at the facility:**

- 16 (1) **The chemical name or the common name of the chemical**
 17 **as provided on the material safety data sheet.**
 18 (2) **An estimate in ranges of the maximum amount of the**
 19 **hazardous chemical present at the facility at any time during**
 20 **the preceding year.**
 21 (3) **An estimate in ranges of the average daily amount of the**
 22 **hazardous chemical present at the facility during the**
 23 **preceding year.**
 24 (4) **A brief description of the manner of storage of the**
 25 **hazardous chemical.**
 26 (5) **The location at the facility of the hazardous chemical.**
 27 (6) **An indication of whether the owner of the facility elects to**
 28 **withhold location information of a specific hazardous**
 29 **chemical from disclosure to the public under section 14 of this**
 30 **chapter.**
 31 (7) **The tier II inventory information specified in 40 CFR**
 32 **370.42.**

33 **When the tier II inventory information is being submitted using an**
 34 **online system approved by the commission, an electronic signature**
 35 **that meets the conditions established by the commission will satisfy**
 36 **the signature requirement specified in 40 CFR 370.42(a).**

37 (b) ~~The inventory form containing tier I information as described in~~
 38 ~~subsection (e):~~

- 39 (1) ~~shall be submitted before March 1 of each year; and~~
 40 (2) ~~must contain data with respect to the preceding year;~~
 41 ~~unless an owner or operator provides, before March 1 and with respect~~
 42 ~~to the same year, tier II information as described in section 10(a) of this~~



1 chapter to the recipients described in subsection (a):

2 (e) (b) An owner or operator may meet the requirements of this
3 section and section 10 of this chapter with respect to a hazardous
4 chemical that is a mixture by doing one (1) of the following:

5 (1) Providing information on the inventory form on each element
6 or compound in the mixture that is a hazardous chemical. If more
7 than one (1) mixture has the same element or compound, only one
8 (1) listing on the inventory form for the element or compound at
9 the facility is necessary.

10 (2) Providing information on the inventory form on the mixture.

11 (d) (c) A hazardous chemical for which a material safety data sheet
12 or a listing is required by section 8 of this chapter is subject to this
13 section and section 10 of this chapter.

14 (e) An inventory form must contain the following tier I information
15 in aggregate terms for hazardous chemicals in categories of health and
16 physical hazards as set forth under the federal Occupational Safety and
17 Health Act (29 U.S.C. 651 through 658) and regulations adopted under
18 the Act:

19 (1) An estimate in ranges of the maximum amount of hazardous
20 chemicals in each category present at the facility at any time
21 during the preceding year.

22 (2) An estimate in ranges of the average daily amount of
23 hazardous chemicals in each category present at the facility
24 during the preceding year.

25 (3) The general location of hazardous chemicals in each category:

26 SECTION 12. IC 13-25-2-10 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10. (a) An inventory
28 form must provide the following additional tier II information for each
29 hazardous chemical present at the facility only upon request and in
30 accordance with subsection (b):

31 (1) The chemical name or the common name of the chemical as
32 provided on the material safety data sheet.

33 (2) An estimate in ranges of the maximum amount of the
34 hazardous chemical present at the facility at any time during the
35 preceding year.

36 (3) An estimate in ranges of the average daily amount of the
37 hazardous chemical present at the facility during the preceding
38 year.

39 (4) A brief description of the manner of storage of the hazardous
40 chemical.

41 (5) The location at the facility of the hazardous chemical.

42 (6) An indication of whether the owner of the facility elects to



1 withhold location information of a specific hazardous chemical
2 from disclosure to the public under section 14 of this chapter.

3 **On or after January 1 and before March 1 of each year, a facility**
4 **that is required to prepare or have available a material safety data**
5 **sheet for a hazardous chemical under the federal Occupational**
6 **Safety and Health Act (29 U.S.C. 651 through 658) and regulations**
7 **adopted under the Act shall submit the following to the**
8 **commission:**

9 (1) A tier II emergency and hazardous chemical inventory
10 form containing the information required by section 9 of this
11 chapter.

12 (2) A fee in the amount established by section 10.4 of this
13 chapter. This fee shall be deposited in the local emergency
14 planning and right to know fund established in section 10.5 of
15 this chapter.

16 **The tier II inventory form must contain data with respect to the**
17 **preceding calendar year, and the inventory form and the fee shall**
18 **be submitted in the form and manner established by the**
19 **commission.**

20 (b) **The commission shall make the tier II emergency and**
21 **hazardous chemical inventory form information provided to the**
22 **commission by a facility under subsection (a)(1) available to the**
23 **following:**

24 (1) **The appropriate local emergency planning committee.**

25 (2) **The fire department that has jurisdiction over the facility.**

26 ~~(b)~~ (c) Upon the request of:

27 ~~(1)~~ the commission;

28 ~~(2)~~ (1) a local emergency planning committee; or

29 ~~(3)~~ (2) a fire department with jurisdiction over a facility;

30 the owner or operator of a facility **that is required to prepare or have**
31 **available a material safety data sheet for a hazardous chemical**
32 **under the federal Occupational Safety and Health Act (29 U.S.C.**
33 **651 through 658) and regulations adopted under the Act shall**
34 **provide the tier II emergency and hazardous chemical inventory**
35 **form information as described in subsection (a) to the person making**
36 **the request. A request must be made with respect to a specific facility.**

37 ~~(c)~~ (d) A state or local official acting in the official's capacity may
38 have access to tier II information **on the tier II emergency and**
39 **hazardous chemical inventory forms** by submitting a request to the
40 commission or a local emergency planning committee. **If the**
41 **commission or the emergency planning committee does not already**
42 **possess the requested information, upon receipt of a request for tier**



1 **II emergency and hazardous chemical inventory form** information,
 2 the commission or committee shall request the facility owner or
 3 operator to provide the tier II **emergency and hazardous chemical**
 4 **inventory form** information. ~~and The commission or the local~~
 5 **emergency planning committee shall** make the information available
 6 to the official.

7 ~~(d)~~ **(e)** A person may make a request to the commission or a local
 8 emergency planning committee for tier II **emergency and hazardous**
 9 **chemical inventory form** information relating to the preceding year
 10 with respect to a facility. The request must be in writing and must be
 11 made with respect to a specific facility.

12 ~~(e)~~ **(f)** Any tier II **emergency and hazardous chemical inventory**
 13 **form** information that the commission or a local emergency planning
 14 committee possesses shall be made available to a person making a
 15 request under this section in accordance with section 14 of this chapter.
 16 If the commission or local emergency planning committee does not
 17 possess the tier II **emergency and hazardous chemical inventory**
 18 **form** information requested, the commission or local emergency
 19 planning committee shall request the facility owner or operator to:

20 (1) provide the tier II **emergency and hazardous chemical**
 21 **inventory form** information with respect to a hazardous chemical
 22 that a facility has stored in an amount of at least ten thousand
 23 (10,000) pounds present at the facility at any time during the
 24 preceding year; and

25 (2) make the information available in accordance with section 14
 26 of this chapter;

27 to the person making the request.

28 ~~(f)~~ **(g)** For tier II **emergency and hazardous chemical inventory**
 29 **form** information that is not in the possession of the commission or a
 30 local emergency planning committee with respect to a hazardous
 31 chemical that a facility has stored in an amount that is less than ten
 32 thousand (10,000) pounds at the facility at any time during the
 33 preceding year, a request from a person must include a statement
 34 specifying the general need for the information. The commission or
 35 local emergency planning committee may request the facility owner or
 36 operator for the tier II **emergency and hazardous chemical inventory**
 37 **form** information on behalf of the person making the request. Upon
 38 receipt of any information requested on behalf of the person, the
 39 commission or local emergency planning committee shall make the
 40 information available in accordance with section 14 of this chapter to
 41 the person.

42 ~~(g)~~ **(h)** The commission or a local emergency planning committee



1 shall respond to a request for tier II **emergency and hazardous**
 2 **chemical inventory form** information under this section not later than
 3 seven (7) days after the date the request is received.

4 **(i) The following provisions apply to the fee required by**
 5 **subsection (a)(2):**

6 **(1) A facility that is subject to the fee required by subsection**
 7 **(a)(2) that fails to pay the entire fee by March 1 of each year**
 8 **shall pay to the commission a late fee of twenty dollars (\$20)**
 9 **in addition to the fee payable under subsection (a)(2). This**
 10 **late fee shall increase by twenty dollars (\$20) for each month**
 11 **that the required fee is not paid. This late fee shall never**
 12 **exceed one hundred percent (100%) of the fee required by**
 13 **subsection (a)(2).**

14 **(2) If a payment is made by bank draft, check, cashier's check,**
 15 **electronic check, or money order, the liability is not finally**
 16 **discharged and the person has not paid the fee until the draft,**
 17 **check, or money order has been honored by the institution on**
 18 **which it is drawn. If the payment is made by credit card, debit**
 19 **card, charge card, or similar method, the liability is not finally**
 20 **discharged and the person has not paid the fee until the**
 21 **commission receives payment or credit from the institution**
 22 **responsible for making the payment or credit.**

23 **(3) If a financial institution reports that it dishonors or rejects**
 24 **a person's check, credit card payment, electronic funds**
 25 **transfer, or other form of payment, the commission shall**
 26 **assess and collect the fees and charges authorized in**
 27 **IC 35-43-5-5(e), in addition to the applicable late fee assessed**
 28 **under subdivision (1). If the person subject to the penalty**
 29 **under this subsection can show that there is reasonable cause**
 30 **for the payment not being honored, the commission may**
 31 **waive the fees and charges imposed under this subsection.**

32 SECTION 13. IC 13-25-2-10.4 IS ADDED TO THE INDIANA
 33 CODE AS A NEW SECTION TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2015]: **Sec. 10.4. (a) Each year a fee is**
 35 **imposed on a facility that must submit an emergency and**
 36 **hazardous chemical inventory form under section 10 of this**
 37 **chapter. The amount of the fee is as follows:**

38 **(1) For a facility in which at least one million (1,000,000)**
 39 **pounds of any hazardous chemical was present at one (1) time**
 40 **during the year preceding the year in which the fee is**
 41 **imposed, a fee of two hundred dollars (\$200).**

42 **(2) For a facility in which, in the year preceding the year in**



1 which the fee is imposed, one (1) or more hazardous chemicals
 2 were present in amounts exceeding the threshold quantities
 3 established under 42 U.S.C. 11022(b), but the total amount of
 4 any hazardous chemical present did not at any one (1) time
 5 equal or exceed one million (1,000,000) pounds, a fee of one
 6 hundred dollars (\$100).

7 (3) For a facility that contains underground storage tanks (as
 8 defined in IC 13-11-2-241) and was subject to the reporting
 9 requirement in 42 U.S.C. 6991a(a), but in which, in the year
 10 preceding the year in which the fee is imposed, no hazardous
 11 chemicals were present in amounts exceeding the threshold
 12 quantities established under 42 U.S.C. 11022(b) (other than
 13 substances stored in underground storage tanks that must be
 14 reported under 42 U.S.C. 6991a(a)), a fee of fifty dollars (\$50).

15 (b) A facility subject to the fee imposed by this section shall pay
 16 this fee as required by section 10 of this chapter.

17 SECTION 14. IC 13-25-2-10.5 IS ADDED TO THE INDIANA
 18 CODE AS A NEW SECTION TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2015]: **Sec. 10.5.** The local emergency
 20 planning and right to know fund is established for the purpose of
 21 providing each county with funds to help implement SARA (42
 22 U.S.C. 11001 et seq.). The department of homeland security
 23 established under IC 10-19-2-1 shall administer the fund. The fund
 24 consists of:

- 25 (1) revenue produced by any fee or charge imposed under
- 26 section 10 or 10.4 of this chapter; and
- 27 (2) accrued interest and other investment earnings of the
- 28 fund.

29 Money in the fund does not revert to the state general fund at the
 30 end of a state fiscal year.

31 SECTION 15. IC 13-25-2-10.6 IS ADDED TO THE INDIANA
 32 CODE AS A NEW SECTION TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2015]: **Sec. 10.6. (a)** Before July 1 of each
 34 year, the department of homeland security shall distribute the
 35 money in the local emergency planning and right to know fund as
 36 follows:

- 37 (1) Ten percent (10%) allocated to the commission and
- 38 administered by the department of homeland security to be
- 39 used for the implementation and administration of IC 13-25-1
- 40 and this chapter. Money received as an allocation under this
- 41 subdivision does not revert to the state general fund at the end
- 42 of a state fiscal year.



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(2) A distribution of the remaining money as follows:

(A) To each county, two thousand five hundred dollars (\$2,500).

(B) To each county, an additional distribution in an amount determined in STEP TWO of the following formula:

STEP ONE: Divide the amount available for distribution by the number of facilities that paid the fee required under section 10(a)(2) of this chapter in the calendar year preceding the distribution.

STEP TWO: Multiply the quotient determined in STEP ONE by the number of facilities located in each county.

The department of homeland security may make a distribution to a county under this subdivision only after receiving notice from the commission that the local emergency planning committee for the county has met the requirements of IC 13-25-1-6(b).

(b) The revenue distributed to the county under this section shall be deposited in a separate fund established by the county for the purpose of:

(1) preparing and updating a comprehensive emergency response plan required under 42 U.S.C. 11003 for the county or emergency planning district;

(2) establishing and implementing procedures for receiving and processing requests from the public for information about hazardous chemicals under SARA (42 U.S.C. 11001 et seq.);

(3) training for emergency response planning, information management, and hazardous materials incident response and exercising hazardous materials response plans;

(4) equipping a hazardous materials response team that provides at least a district wide emergency planning response if the equipment purchased is consistent with current training levels of the response team members;

(5) purchasing communication equipment for a local emergency planning committee's administrative use;

(6) paying an optional stipend to local emergency planning committee members who attend regularly scheduled meetings at which a quorum is present in an amount:

(A) determined by a majority of the local emergency planning committee membership; and

(B) that is not more than twenty dollars (\$20) per member per meeting;



1 (7) paying for Title III risk communication, chemical accident
 2 related, and accident prevention projects submitted to and
 3 approved by the commission; and

4 (8) maintaining, repairing, and calibrating equipment
 5 purchased for a hazardous materials response team under
 6 subdivision (4).

7 However, revenue distributed to a county under this section may
 8 be used for the purposes set forth in subdivisions (3) through (8)
 9 only if the local emergency planning committee appointed for the
 10 county has prepared and submitted to the commission an
 11 emergency plan that meets the requirements of 42 U.S.C. 11003(a)
 12 and has received approval for the training programs from the
 13 commission.

14 (c) The fund established under subsection (b) shall be
 15 administered by the county executive. The expenses of
 16 administering the fund shall be paid from money in the fund.
 17 Money in the fund not currently needed to meet the obligations of
 18 the fund may be invested in the same manner as other public funds.
 19 Interest that accrues from these investments shall be deposited in
 20 the fund. Money in the fund at the end of the fiscal year remains in
 21 the fund and does not revert to any other fund.

22 (d) Money shall be appropriated by a county fiscal body (as
 23 defined in IC 36-1-2-6) from a fund established under subsection
 24 (b) upon the receipt by the county fiscal body of the local
 25 emergency planning committee's spending plan. The spending plan
 26 must:

27 (1) have been approved by a majority of the members of the
 28 local emergency planning committee; and

29 (2) conform with the provisions of this chapter.

30 The county fiscal body may not appropriate money from the fund
 31 established under subsection (b) for any person or purpose other
 32 than the local emergency planning committee.

33 (e) All equipment, apparatus, and supplies purchased with
 34 money from a fund established under subsection (b) remain under
 35 the direction and control of the local emergency planning
 36 committee.

37 SECTION 16. IC 13-25-2-10.7 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2015]: Sec. 10.7. (a) The commission may
 40 withhold a local emergency planning committee's funding for
 41 failure to provide annually to the commission one (1) of the
 42 following:



- 1 **(1) The report required under IC 13-25-1-6(b)(4).**
 2 **(2) Proof of published legal notice required under SARA.**
 3 **(3) An updated version of the local emergency planning**
 4 **committee's emergency preparedness plan as required under**
 5 **SARA.**
 6 **(4) A copy of the current bylaws of the local emergency**
 7 **planning committee as required by SARA.**
 8 **(5) Evidence of an exercise of the response plan required**
 9 **under SARA.**
 10 **(6) A roster of the current membership of the local emergency**
 11 **planning committee as required under IC 13-25-1-6(b)(2).**
 12 **(7) Minutes of the local emergency planning committee**
 13 **meetings conducted at least two (2) times, on separate days,**
 14 **every six (6) months as required under IC 13-25-1-6(b)(3).**
 15 **(b) If the commission withholds funding under subsection (a),**
 16 **and notwithstanding section 10.6(a)(1) of this chapter, the**
 17 **commission may use the balance of the withheld funding for**
 18 **purposes of hazardous material training and preparedness.**
 19 SECTION 17. IC 13-25-2-19 IS ADDED TO THE INDIANA
 20 CODE AS A NEW SECTION TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2015]: **Sec. 19. To carry out the**
 22 **responsibilities of the commission, the commission, or an**
 23 **authorized representative or agent of the commission, shall have a**
 24 **right to enter upon, to, or through public or private premises to**
 25 **investigate, copy all records related to hazardous chemicals, and**
 26 **inspect for compliance with the requirements imposed under this**
 27 **chapter.**
 28 SECTION 18. IC 21-39-7-7, AS ADDED BY P.L.29-2011,
 29 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2015]: **Sec. 7. (a) The board of trustees may enter into:**
 31 (1) an agreement with:
 32 (A) the fire chief of a municipality or of a volunteer fire
 33 department;
 34 (B) the state fire marshal; or
 35 (C) another appropriate fire and emergency service agency
 36 official;
 37 to establish additional operational authority where property or
 38 persons to be protected are located; and
 39 (2) an interlocal cooperation agreement under IC 36-1-7 to supply
 40 and receive fire suppression, fire prevention, emergency response,
 41 and emergency medical services.
 42 **(b) The board of trustees may choose not to participate in the**



1 statewide mutual aid program by following the procedure set forth in
2 ~~IC 10-14-3-10.6(c)~~:

3 SECTION 19. [EFFECTIVE JULY 1, 2015] (a) **On July 1, 2015,**
4 **the auditor of state shall transfer the balance that remained on**
5 **June 30, 2015, in the emergency planning and right to know fund**
6 **established by IC 6-6-10-5 (before its repeal by this act) to the local**
7 **emergency planning and right to know fund established under**
8 **IC 13-25-2-10.5.**

9 (b) **Notwithstanding any other law, the department of state**
10 **revenue shall, after June 30, 2015, continue to collect any fees that**
11 **were due under IC 6-6-10-6 (before its repeal by this act). Any**
12 **funds collected by the department of state revenue after June 30,**
13 **2015, shall be deposited in the local emergency planning and right**
14 **to know fund established under IC 13-25-2-10.5.**

15 (c) **This SECTION expires July 1, 2017.**

