Reprinted
February 28, 2012

ENGROSSED
HOUSE BILL No. 1367

DIGEST OF HB 1367 (Updated February 27, 2012 4:05 pm - DI 73)

Citations Affected: IC 4-3; IC 8-1; IC 16-32; IC 16-35; IC 20-22; IC 20-35; noncode.

Synopsis: Deaf and hard of hearing education services. Establishes the center for deaf and hard of hearing education (center) to ensure that children who are deaf or hard of hearing acquire optimal communication and academic abilities. Specifies the duties of the center. Provides that before July 1, 2013, the office of management and budget (OMB) shall, in consultation with the Indiana School for the Deaf, the department of education, the state department of health, and the office of the secretary of family and social services, recommend to the general assembly through the budget process an appropriate agency to provide support for the center. Specifies that until the center is established and operating, the Indiana School for the Deaf shall continue to provide those services that will be transferred at the time the center is established and operating. Provides that the state board of

(Continued next page)

Effective: Upon passage; July 1, 2012; October 1, 2012; July 1, 2013.

Noe, Thompson
(SENATE SPONSORS — LAWSON C, HERSHMAN)

January 11, 2012, read first time and referred to Committee on Education.
January 27, 2012, amended, reported — Do Pass.
January 30, 2012, read second time, amended, ordered engrossed.
January 31, 2012, engrossed. Read third time, passed. Yeas 61, nays 36.

SENATE ACTION

February 1, 2012, read first time and referred to Committee on Appropriations.
February 23, 2012, amended, reported favorably — Do Pass.
February 27, 2012, read second time, amended, ordered engrossed.

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finance and the state budget agency may not transfer for use by or for the center any appropriation made to the Indiana School for the Deaf by the 2011 budget act. Transfers the outreach services and consultative services to local education agencies to assist in meeting the needs of locally enrolled students with hearing disabilities of the Indiana School for the Deaf to the center. Provides that, before October 1, 2012, the OMB (in consultation with the Indiana School for the Deaf, the department of education, the state department of health, and the office of the secretary of family and social services) must submit a transition report to the state budget committee. Requires the OMB in developing the transition report to also consult with other specified entities, and to conduct two public meetings prior to submitting its transition report. Requires the OMB to post the final transition report on its Internet web site. Requires the state budget committee to consider the transition report in the state budget report and budget bill. Changes references throughout the Indiana Code from "hearing impaired" to "hard of hearing". Requires the state board of education to make recommendations before October 1, 2012, to the legislative council and to the state budget committee concerning the unique and appropriate methods of evaluation and accountability that should be applied to the Indiana School for the Blind and Visually Impaired and the Indiana School for the Deaf.

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February 28, 2012

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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ENGROSSED
HOUSE BILL No. 1367

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

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

SECTION 1. IC 4-3-22-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 18. Before July 1, 2013, the office of management and budget, in consultation with the Indiana School for the Deaf, the department of education, the state department of health, and the office of the secretary of family and social services, shall recommend to the general assembly through the budget process an appropriate agency to provide office space and staff support for the center for deaf and hard of hearing education established under IC 20-35-11. Until the center for deaf and hard of hearing education is established and operating, the Indiana School for the Deaf shall continue to provide those services that will be transferred from the Indiana School for the Deaf to the center for deaf and hard of hearing education or local education agencies at the time the center is established and operating.**

SECTION 2. IC 8-1-2.6-13, AS AMENDED BY P.L.1-2007, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2012]: Sec. 13. (a) As used in this section, "communications service" has the meaning set forth in IC 8-1-32.5-3.

(b) As used in this section, "communications service provider" means a person or an entity that offers communications service to customers in Indiana, without regard to the technology or medium used by the person or entity to provide the communications service. The term includes a provider of commercial mobile service (as defined in 47 U.S.C. 332).

(c) As used in this section, "dark fiber" refers to unused capacity in a communications service provider's communications network, including fiber optic cable or other facilities:

(1) in place within a public right-of-way; but

(2) not placed in service by a communications service provider.

(d) Notwithstanding sections 1.2, 1.4, and 1.5 of this chapter, the commission may do the following both during and after the rate transition period described in section 1.3 of this chapter, except as otherwise provided in this subsection:

(1) Subject to section 12 of this chapter, enforce the terms of a settlement agreement approved by the commission before July 29, 2004. The commission's authority under this subdivision continues for the duration of the settlement agreement.

(2) Fulfill the commission's duties under IC 8-1-2.8 concerning the provision of dual party relay services to **deaf, hard of** hearing, ~~impaired~~ and speech impaired persons in Indiana.

(3) Fulfill the commission's duties under IC 8-1-19.5 concerning the administration of the 211 dialing code for communications service used to provide access to human services information and referrals.

(4) Fulfill the commission's responsibilities under IC 8-1-29 to adopt and enforce rules to ensure that a customer of a telecommunications provider is not:

(A) switched to another telecommunications provider unless the customer authorizes the switch; or

(B) billed for services by a telecommunications provider that without the customer's authorization added the services to the customer's service order.

(5) Fulfill the commission's obligations under:

(A) the federal Telecommunications Act of 1996 (47 U.S.C. 151 et seq.); and

(B) IC 20-20-16;

concerning universal service and access to telecommunications service and equipment, including the designation of eligible

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telecommunications carriers under 47 U.S.C. 214.

(6) Perform any of the functions described in section 1.5(b) of this chapter.

(7) After June 30, 2009, perform the commission's responsibilities under IC 8-1-32.5 to:

(A) issue; and

(B) maintain records of;

certificates of territorial authority for communications service providers offering communications service to customers in Indiana.

(8) Perform the commission's responsibilities under IC 8-1-34 concerning the issuance of certificates of franchise authority to multichannel video programming distributors offering video service to Indiana customers.

(9) After June 30, 2009, require a communications service provider, other than a provider of commercial mobile service (as defined in 47 U.S.C. 332), to report to the commission on an annual basis, or more frequently at the option of the provider, any of the following information:

(A) Service quality goals and performance data. The commission shall make any information or data submitted under this subsection available:

(i) for public inspection and copying at the offices of the commission under IC 5-14-3; and

(ii) electronically through the computer gateway administered by the office of technology established by IC 4-13.1-2-1;

to the extent the information or data are not exempt from public disclosure under IC 5-14-3-4(a).

(B) Information concerning the:

(i) capacity;

(ii) location; and

(iii) planned or potential use;

of the communications service provider's dark fiber in Indiana.

(C) Information concerning the communications service offered by the communications service provider in Indiana, including:

(i) the types of service offered; and

(ii) the areas in Indiana in which the services are offered.

(D) Any information needed by the commission to prepare the commission's report to the regulatory flexibility committee under section 4 of this chapter.

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(E) Any other information that the commission is authorized to collect from a communications service provider under state or federal law.

The commission may revoke a certificate issued to a communications service provider under IC 8-1-32.5 if the communications service provider fails or refuses to report any information required by the commission under this subdivision. However, this subdivision does not empower the commission to require a communications service provider to disclose confidential and proprietary business plans and other confidential information without adequate protection of the information. The commission shall exercise all necessary caution to avoid disclosure of confidential information supplied under this subdivision.

(10) Perform the commission's duties under IC 8-1-32.4 with respect to telecommunications providers of last resort, to the extent of the authority delegated to the commission under federal law to perform those duties.

(11) Perform the commission's duties under IC 8-1-2-5 with respect to interconnection.

(12) Establish and administer the Indiana Lifeline assistance program under IC 8-1-36.

(13) After June 30, 2009, collect and maintain from a provider of commercial mobile service (as defined in 47 U.S.C. 332) the following information:

(A) The address of the provider's **Internet** web site.

(B) All toll free telephone numbers and other customer service telephone numbers maintained by the provider for receiving customer inquiries and complaints.

(C) An address and other contact information for the provider, including any telephone number not described in clause (B).

The commission shall make any information submitted by a provider under this subdivision available on the commission's **Internet** web site. The commission may also make available on the commission's **Internet** web site contact information for the Federal Communications Commission and the Cellular Telephone Industry Association.

(14) Fulfill the commission's duties under any state or federal law concerning the administration of any universally applicable dialing code for any communications service.

(e) After June 30, 2009, the commission does not have jurisdiction over any of the following with respect to a communications service

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provider:

(1) Rates and charges for communications service provided by the communications service provider, including the filing of schedules or tariffs setting forth the provider's rates and charges.

(2) Depreciation schedules for any of the classes of property owned by the communications service provider.

(3) Quality of service provided by the communications service provider, other than the imposition of a reporting requirement under subsection (d)(9)(A).

(4) Long term financing arrangements or other obligations of the communications service provider.

(5) Except as provided in subsection (d), any other aspect regulated by the commission under this title before July 1, 2009.

(f) After June 30, 2009, the commission has jurisdiction over a communications service provider only to the extent that jurisdiction is:

(1) expressly granted by state or federal law, including:

(A) a state or federal statute;

(B) a lawful order or regulation of the Federal Communications Commission; or

(C) an order or a ruling of a state or federal court having jurisdiction; or

(2) necessary to administer a federal law for which regulatory responsibility has been delegated to the commission by federal law.

SECTION 3. IC 8-1-2.8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. As used in this chapter, **"deaf, hard of** hearing, ~~impaired~~ or speech impaired person" means a person who is so certified by a licensed physician, an otolaryngologist, a speech language pathologist, an audiologist, or a qualified state agency.

SECTION 4. IC 8-1-2.8-8, AS AMENDED BY P.L.27-2006, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. As used in this chapter, "local exchange company" or "LEC" refers to any communications service provider (as defined in IC 8-1-2.6-13(b)) that:

(1) has a certificate of territorial authority on file with the commission; and

(2) is required to provide dual party relay services to **deaf, hard of** hearing, ~~impaired~~ and speech impaired persons under federal law.

SECTION 5. IC 8-1-2.8-10, AS AMENDED BY P.L.27-2006, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2012]: Sec. 10. The general assembly finds and declares the following:

(1) That it is in the public interest of the state to promptly provide **deaf, hard of** hearing, ~~impaired~~ or speech impaired persons with access to telecommunications services that are functionally equivalent to those provided to hearing persons.

(2) That Title IV of the ADA mandates that each telephone company providing telephone service within the state must provide dual party relay services on or before July 26, 1993, to **deaf, hard of** hearing, ~~impaired~~ and speech impaired persons within the territorial area or areas it serves in a manner that meets or exceeds the requirements of regulations prescribed by the FCC.

(3) That the most efficient, cost effective, and fair method for LECs to provide dual party relay services to **deaf, hard of** hearing, ~~impaired~~ and speech impaired persons and to comply with the federal mandate without the use of tax revenues is the establishment of the Indiana Telephone Relay Access Corporation for the Hearing and Speech Impaired under this chapter.

(4) That the provision of dual party relay services to **deaf, hard of** hearing, ~~impaired~~ and speech impaired persons can be enhanced by providing in appropriate circumstances in the sole discretion of the InTRAC telecommunications devices that facilitate access to the dual party relay services.

SECTION 6. IC 8-1-2.8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. Beginning on June 1, 1991, the commission shall require each LEC to impose a monthly surcharge in the amount of five cents ($0.05) on each residential and business line (or line equivalent) of its customers to fund and recover costs for developing and providing dual party relay services that may include in appropriate circumstances in the sole discretion of the InTRAC providing telecommunications devices to **deaf, hard of** hearing, ~~impaired~~ and speech impaired persons.

SECTION 7. IC 8-1-2.8-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 12. (a) The InTRAC may periodically apply to the commission for an adjustment in the amount of the monthly surcharge that a LEC must impose on its customers under this chapter. Before applying to the commission for such an adjustment, the InTRAC must do the following:

(1) Employ an independent accounting firm to review its surcharge determinations and to review and audit those accounts of the InTRAC and its members relevant to the surcharge.

(2) File with the commission in connection with its application a

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copy of the report prepared by the accounting firm under subdivision (1).

(b) When the InTRAC applies for an adjustment under this section, the commission may perform audits and tests to verify the calculation of the adjustment. However, the sole purpose of audits and tests by the commission must be to assure that the revenue produced by the surcharge is sufficient to cover the costs incurred by the InTRAC in providing services that meet the requirements imposed on telephone companies by the ADA. The costs incurred by the InTRAC include the following:

(1) Costs for the development, continued operation and improvement of dual party relay services that may include in appropriate circumstances in the sole discretion of the InTRAC providing telecommunications devices to **deaf, hard of** hearing, ~~impaired~~ and speech impaired persons.

(2) The administrative costs of the InTRAC.

(3) The amount of reasonable reserves necessary to meet future costs.

(4) The amounts paid by the InTRAC to each LEC to compensate the LEC for collection, inquiry, and other administrative services it provides for the surcharges.

(5) The amounts paid by the InTRAC to each LEC to compensate the LEC for the necessary costs incurred by the LEC in facilitating inter-connection with and effecting use of the dual party relay service for their respective customers.

(c) It is the intent and purpose of this section that the InTRAC shall have available to it at all times sufficient funding to develop, provide for, and maintain dual party relay services that meet or exceed the requirements imposed by the ADA.

SECTION 8. IC 8-1-2.8-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 14. A surcharge shall be collected on the regular monthly bill that a LEC sends to each of its customers. The surcharge may be separately identified on customers' bills as a special surcharge for the provision of services, including telecommunications devices as provided in section 10(4) of this chapter, to **deaf, hard of** hearing, ~~impaired~~ and speech impaired persons.

SECTION 9. IC 8-1-2.8-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 15. All costs incurred by a LEC as a result of its compliance with the ADA requirements to provide services to **deaf, hard of** hearing, ~~impaired~~ and speech impaired persons shall be accounted for separately and recovered as

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required by the ADA and the FCC.

SECTION 10. IC 8-1-2.8-18, AS AMENDED BY P.L.27-2006, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 18. The articles of incorporation of the InTRAC must provide the following:

(1) The name of the corporation shall be "Indiana Telephone Relay Access Corporation for the Hearing and Speech Impaired".

(2) The sole purpose for which the InTRAC shall be organized and operated is to provide at the lowest cost reasonably possible:

(A) on behalf of LECs and the citizens of Indiana; and

(B) in conjunction with LECs;

adequate and dependable dual party relay services that may include in appropriate circumstances in the sole discretion of the InTRAC telecommunications devices to **deaf, hard of** hearing, ~~impaired~~ and speech impaired persons within the territorial area in Indiana that LECs serve in a manner that meets or exceeds the requirements of regulations prescribed by the FCC.

(3) The InTRAC must have authority to perform any lawful act that is necessary, convenient, or expedient to accomplish the purpose for which the InTRAC is formed.

(4) No part of the net earnings of the InTRAC may inure to the benefit of any member, director, or officer of the InTRAC, nor shall any member of the InTRAC receive any earnings from the corporation except as follows:

(A) A member may be an independent contractor, a supplier, a vendor, or an authorized agent of the InTRAC and may receive fair and reasonable compensation for the member's provision of goods or services.

(B) An officer may receive reasonable compensation for services that the officer performs in the officer's capacity as an officer of the InTRAC.

(C) A director may be reimbursed for expenses incurred by the director in the performance of the director's duties.

(5) The InTRAC may not:

(A) make an advancement for services to be performed in the future; or

(B) make a loan of money or property to any director or officer of the corporation.

(6) No member, director, or officer of the InTRAC or any private individual may share in the distribution of any of the assets of the InTRAC upon its dissolution.

(7) If there is a dissolution of the InTRAC, any of the assets of the

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InTRAC available for distribution shall be distributed to a charity:

(A) selected by the board of directors of the InTRAC; and

(B) having a purpose that includes providing services to **persons who are deaf, hard of** hearing, ~~impaired~~ and speech impaired. ~~persons.~~

(8) The InTRAC shall have one (1) class of members consisting of those communications service providers that are designated as authorized LECs by the commission.

(9) Each member of the InTRAC shall serve as a member for as long as the commission finds that the member is a LEC. A member's:

(A) right to vote at meetings of the members of the InTRAC; and

(B) right, title, and interest in or to the corporation;

cease on the termination of a member's membership.

(10) Each member present in person or by proxy at a meeting of the members of the InTRAC may cast one (1) vote upon each question voted upon at:

(A) all meetings of the members; and

(B) in any election of a director of the InTRAC.

(11) The board of directors of the InTRAC consists of seven (7) directors selected as follows:

(A) Six (6) directors elected by the members of the InTRAC.

(B) The director of the state office of deaf and hearing impaired services.

(12) The business, property, and affairs of the InTRAC are managed and controlled by the board of directors of the InTRAC.

SECTION 11. IC 8-1-17.5-25, AS AMENDED BY P.L.219-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 25. Notwithstanding any other law, the commission may exercise jurisdiction over a surviving corporation or successor corporation formed under this chapter only to do the following:

(1) Ensure compliance with IC 8-1-2.8 concerning the provision of dual party relay services to **deaf, hard of** hearing, ~~impaired~~ and speech impaired persons in Indiana.

(2) Perform the commission's duties under IC 8-1-19.5 concerning the administration of the 211 dialing code for communications service used to provide access to human services information and referrals.

(3) Enforce rules adopted under IC 8-1-29 to ensure that a customer of a telecommunications provider is not:

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(A) switched to another telecommunications provider unless the customer authorizes the switch; or

(B) billed for services by a telecommunications provider that without the customer's authorization added the services to the customer's service order.

(4) Conduct proceedings under:

(A) the federal Telecommunications Act of 1996 (47 U.S.C. 151 et seq.); and

(B) IC 20-20-16;

concerning universal service and access to telecommunications service and equipment, including the designation of eligible telecommunications carriers under 47 U.S.C. 214.

(5) Perform the commission's duties under IC 8-1-2.6-1.5 or IC 8-1-2-5.

(6) Issue or maintain certificates of territorial authority for communications service providers under IC 8-1-32.5.

(7) Perform the commission's duties under IC 8-1-34 to issue and maintain certificates of franchise authority to multichannel video programming distributors offering video service to Indiana customers.

(8) Perform the commission's duties under IC 8-1-2.6-13(d)(9) concerning the reporting of information by communications service providers.

(9) Administer the Indiana lifeline assistance program under IC 8-1-36.

(10) Fulfill the commission's duties under any state or federal law concerning the administration of any universally applicable dialing code for any communications service.

(11) Perform the commission's duties under IC 8-1-2.3 with respect to assigned service areas for electricity suppliers.

(12) Issue:

(A) certificates of public convenience and necessity, certificates of territorial authority, and indeterminate permits under IC 8-1-2;

(B) certificates of public convenience and necessity under IC 8-1-8.5; or

(C) certificates of public convenience and necessity under IC 8-1-8.7.

(13) Determine territorial disputes between water utilities under IC 8-1-2-86.5.

SECTION 12. IC 16-32-3-2, AS AMENDED BY P.L.155-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2012]: Sec. 2. (a) As used in this section, "public accommodation" means an establishment that caters or offers services, facilities, or goods to the general public. The term includes the following educational facilities:

(1) A nursery school.
(2) An elementary school.
(3) A secondary school.
(4) An undergraduate or postgraduate public or private institution.
(5) Other places of education.

(b) A person who:

(1) is totally or partially blind;
(2) is **deaf or hard of** hearing; ~~impaired;~~ or
(3) has a physical or mental disability;

is entitled to be accompanied by a service animal, especially trained for the purpose, in any public accommodation without being required to pay an extra charge for the service animal. However, the person is liable for any damage done to the accommodation by the service animal.

(c) A person who:

(1) refuses access to a public accommodation; or
(2) charges a fee for access to a public accommodation;

to a person who is totally or partially blind, who ~~has a~~ **is deaf or hard of** hearing, ~~impairment,~~ or who has a physical or mental disability, because that person is accompanied by a service animal commits a Class C infraction.

(d) A service animal trainer, while engaged in the training process of a service animal, is entitled to access to any public accommodation granted by this section.

SECTION 13. IC 16-35-8-9, AS ADDED BY P.L.119-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) The hearing aid assistance program is established.

(b) The following eligibility criteria apply for funding through the hearing aid assistance program:

(1) The hearing aid must be:
(A) prescribed for a child by a physician who is licensed under IC 25-22.5; and
(B) prescribed, fitted, and dispensed for the child by an audiologist who is licensed under IC 25-35.6.
(2) The child has not received funding from the fund for a hearing aid for the applicable ear during the previous three (3) years.
(3) Reimbursement is not available through any of the following

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or is not sufficient to pay the full amount required for a hearing aid:

(A) A policy of accident and sickness insurance (IC 27-8-5).

(B) A health maintenance organization contract (IC 27-13).

(C) The Medicaid program (IC 12-15).

(D) The children's health insurance program (IC 12-17.6).

(E) The federal Medicare program or any other federal assistance program.

(c) The state department may use appropriate internal and external resources to administer the hearing aid assistance program in a cost effective manner.

(d) External foundations and other organizations that provide hearing aid assistance may register with the state department to provide a centralized location from which **deaf and hard of** hearing ~~impaired~~ individuals can obtain information regarding additional sources of hearing aid assistance.

SECTION 14. IC 20-22-2-1, AS ADDED BY P.L.1-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. **(a)** The Indiana School for the Deaf is established as a state educational resource center that includes the following:

(1) A residential and day school.

(2) **Until the center for deaf and hard of hearing education is established and operating,** outreach services.

(3) **Until the center for deaf and hard of hearing education is established and operating,** consultative services to local educational agencies to assist the agencies in meeting the needs of locally enrolled students with hearing disabilities.

(b) The state board of finance and the budget agency may not transfer for use by or for the center for deaf and hard of hearing education any appropriation made to the Indiana School for the Deaf by P.L.229-2011.

SECTION 15. IC 20-35-4-12, AS ADDED BY P.L.1-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 12. Public schools may operate special education programs for **deaf and hard of** hearing ~~impaired~~ children at least six (6) months of age on an experimental basis upon the approval of the state superintendent and the state board.

SECTION 16. IC 20-35-11 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE OCTOBER 1, 2012]:

Chapter 11. Center for Deaf and Hard of Hearing Education

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Sec. 1. This chapter applies after June 30, 2013.

Sec. 2. As used in this chapter, "center" refers to the center for deaf and hard of hearing education established under section 3 of this chapter.

Sec. 3. (a) The center for deaf and hard of hearing education is established.

(b) The purpose of this article is to support parental choice, including the full continuum of communication options (including American sign language, other forms of sign language, cued speech, listening and spoken language (oral), or any combination of these skills).

Sec. 4. The center shall carry out the following duties in an unbiased manner to ensure that children who are deaf and children who are hard of hearing acquire optimal language skills and academic abilities, regardless of the mode of communication used:

(1) Monitoring and tracking the identification, early intervention, education, and successful transitions of children who are deaf and hard of hearing from birth through twenty-one (21) years of age and who are enrolled or preparing to enroll in early intervention services, preschool, elementary, or secondary school.

(2) Developing student learning opportunities.

(3) Providing family support.

(4) Developing child assessment service models, consistent with federal and state early childhood intervention and special education law, for the following:

(A) Audiological assessments.

(B) Social and developmental assessments.

(C) Communication (including language) assessments.

(D) Academic achievement assessments.

(5) Providing classroom assessments of instruction, acoustics, and other environmental aspects.

(6) Assessing professionals who provide students with sign language interpreting, oral interpreting, cued speech transliteration, and captioning services.

(7) Providing consultation to school corporations in providing services to students who are deaf and students who are hard of hearing.

(8) Acting as a liaison with all state agencies that provide services to individuals who are deaf and hard of hearing, including the department of education, the state department of health, the family and social services administration, and

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the Indiana School for the Deaf.

Sec. 5. The center may provide the services set forth in section 4 of this chapter directly or through contract with other entities.

SECTION 17. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 4-3-22-18, as added by this act, before October 1, 2012, the office of management and budget, in consultation with the Indiana School for the Deaf, the department of education, the state department of health, and the office of the secretary of family and social services, shall submit a detailed transition plan to implement and administer the center for deaf and hard of hearing education established in IC 20-35-11, as added by this act, to the budget committee. The office of management and budget shall develop the transition plan in consultation with, but not limited to, the following:**

(1) The chief executive officer of the Indiana School for the Deaf.

(2) The Parent Teacher Counselor Organization of the Indiana School for the Deaf.

(3) Parents of deaf or hard of hearing children who attend school in a regular classroom setting.

(4) A representative of the Indiana chapter of Hands and Voices.

(5) Hear Indiana.

(6) The Indiana Association of the Deaf.

(7) Oral deaf adults.

(8) The first steps program established under IC 12-12.7-2.

(9) The deaf and hard of hearing services (DHHS) program within the family and social services administration, division of disability and rehabilitative services.

(10) The department of education.

(11) The state department of health.

(12) A representative of the St. Joseph Institute for the Deaf.

(13) Public school administrators.

(14) Audiologists.

(15) The director of the outreach program of the Indiana School for the Deaf.

(b) Before the office of management and budget submits the transition plan under subsection (a), the office of management and budget shall conduct two (2) public meetings to receive public testimony. Of the public meetings required in this subsection, one (1) public meeting must take place in the northern half of Indiana and one (1) public meeting must take place in the southern half of

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Indiana, at a place designated by the office of management and budget.

(c) The transition plan developed under subsection (a) must include the following:

(1) A detailed description of how the center for deaf and hard of hearing education, as established in IC 20-35-11-3, as added by this act, will implement and carry out the duties described in IC 20-35-11-4, as added by this act.

(2) A description of the agency described in IC 4-3-22-18, as added by this act, that will provide office space and staff support for the center for deaf and hard of hearing education established under IC 20-35-11, as added by this act.

(3) The estimated costs associated with the operation of the center for deaf and hard of hearing education established under IC 20-35-11, as added by this act.

(4) A description of the fiscal impact on the Indiana School for the Deaf and the agency described in subdivision (2) resulting from the transfer of outreach and consultative service responsibilities.

(5) Any other information the office of management and budget determines is necessary.

(d) The office of management and budget shall, on or before October 15, 2012, post the final transition plan on the office of management and budget's Internet web site.

(e) The budget committee shall consider the transition plan developed under subsection (a) in its preparation of the budget report and budget bill under IC 4-12-1-9 for the state fiscal years beginning on:

(1) July 1, 2013; and

(2) July 1, 2014.

(f) This SECTION expires December 31, 2013.

SECTION 18. [EFFECTIVE UPON PASSAGE] **(a) The state board of education shall, before October 1, 2012, make recommendations to the legislative council (in an electronic format under IC 5-14-6) and to the budget committee concerning the unique and appropriate methods of evaluation and accountability that should be applied to the Indiana School for the Blind and Visually Impaired and the Indiana School for the Deaf. The state board of education shall include in its recommendation any proposed statutory changes or rule changes that the state board believes to be appropriate.**

(b) This SECTION expires July 1, 2013.

C o p y

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

C o p y

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1367, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective date of SECTION 2 with "[EFFECTIVE JULY 1, 2013]".

Page 1, delete lines 1 through 6, begin a new paragraph and insert:

"SECTION 1. IC 4-3-22-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 18. Before July 1, 2013, the office of management and budget shall determine an appropriate agency to provide office space and staff support for the center for deaf and hard of hearing education established under IC 20-35-11.**

SECTION 2. IC 8-1-2.6-13, AS AMENDED BY P.L.1-2007, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 13. (a) As used in this section, "communications service" has the meaning set forth in IC 8-1-32.5-3.

(b) As used in this section, "communications service provider" means a person or an entity that offers communications service to customers in Indiana, without regard to the technology or medium used by the person or entity to provide the communications service. The term includes a provider of commercial mobile service (as defined in 47 U.S.C. 332).

(c) As used in this section, "dark fiber" refers to unused capacity in a communications service provider's communications network, including fiber optic cable or other facilities:

(1) in place within a public right-of-way; but

(2) not placed in service by a communications service provider.

(d) Notwithstanding sections 1.2, 1.4, and 1.5 of this chapter, the commission may do the following both during and after the rate transition period described in section 1.3 of this chapter, except as otherwise provided in this subsection:

(1) Subject to section 12 of this chapter, enforce the terms of a settlement agreement approved by the commission before July 29, 2004. The commission's authority under this subdivision continues for the duration of the settlement agreement.

(2) Fulfill the commission's duties under IC 8-1-2.8 concerning the provision of dual party relay services to **deaf, hard of** hearing, ~~impaired~~ and speech impaired persons in Indiana.

(3) Fulfill the commission's duties under IC 8-1-19.5 concerning

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the administration of the 211 dialing code for communications service used to provide access to human services information and referrals.

(4) Fulfill the commission's responsibilities under IC 8-1-29 to adopt and enforce rules to ensure that a customer of a telecommunications provider is not:

(A) switched to another telecommunications provider unless the customer authorizes the switch; or

(B) billed for services by a telecommunications provider that without the customer's authorization added the services to the customer's service order.

(5) Fulfill the commission's obligations under:

(A) the federal Telecommunications Act of 1996 (47 U.S.C. 151 et seq.); and

(B) IC 20-20-16;

concerning universal service and access to telecommunications service and equipment, including the designation of eligible telecommunications carriers under 47 U.S.C. 214.

(6) Perform any of the functions described in section 1.5(b) of this chapter.

(7) After June 30, 2009, perform the commission's responsibilities under IC 8-1-32.5 to:

(A) issue; and

(B) maintain records of;

certificates of territorial authority for communications service providers offering communications service to customers in Indiana.

(8) Perform the commission's responsibilities under IC 8-1-34 concerning the issuance of certificates of franchise authority to multichannel video programming distributors offering video service to Indiana customers.

(9) After June 30, 2009, require a communications service provider, other than a provider of commercial mobile service (as defined in 47 U.S.C. 332), to report to the commission on an annual basis, or more frequently at the option of the provider, any of the following information:

(A) Service quality goals and performance data. The commission shall make any information or data submitted under this subsection available:

(i) for public inspection and copying at the offices of the commission under IC 5-14-3; and

(ii) electronically through the computer gateway

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administered by the office of technology established by IC 4-13.1-2-1;

to the extent the information or data are not exempt from public disclosure under IC 5-14-3-4(a).

(B) Information concerning the:

(i) capacity;

(ii) location; and

(iii) planned or potential use;

of the communications service provider's dark fiber in Indiana.

(C) Information concerning the communications service offered by the communications service provider in Indiana, including:

(i) the types of service offered; and

(ii) the areas in Indiana in which the services are offered.

(D) Any information needed by the commission to prepare the commission's report to the regulatory flexibility committee under section 4 of this chapter.

(E) Any other information that the commission is authorized to collect from a communications service provider under state or federal law.

The commission may revoke a certificate issued to a communications service provider under IC 8-1-32.5 if the communications service provider fails or refuses to report any information required by the commission under this subdivision. However, this subdivision does not empower the commission to require a communications service provider to disclose confidential and proprietary business plans and other confidential information without adequate protection of the information. The commission shall exercise all necessary caution to avoid disclosure of confidential information supplied under this subdivision.

(10) Perform the commission's duties under IC 8-1-32.4 with respect to telecommunications providers of last resort, to the extent of the authority delegated to the commission under federal law to perform those duties.

(11) Perform the commission's duties under IC 8-1-2-5 with respect to interconnection.

(12) Establish and administer the Indiana Lifeline assistance program under IC 8-1-36.

(13) After June 30, 2009, collect and maintain from a provider of commercial mobile service (as defined in 47 U.S.C. 332) the following information:

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(A) The address of the provider's **Internet** web site.

(B) All toll free telephone numbers and other customer service telephone numbers maintained by the provider for receiving customer inquiries and complaints.

(C) An address and other contact information for the provider, including any telephone number not described in clause (B).

The commission shall make any information submitted by a provider under this subdivision available on the commission's **Internet** web site. The commission may also make available on the commission's **Internet** web site contact information for the Federal Communications Commission and the Cellular Telephone Industry Association.

(14) Fulfill the commission's duties under any state or federal law concerning the administration of any universally applicable dialing code for any communications service.

(e) After June 30, 2009, the commission does not have jurisdiction over any of the following with respect to a communications service provider:

(1) Rates and charges for communications service provided by the communications service provider, including the filing of schedules or tariffs setting forth the provider's rates and charges.

(2) Depreciation schedules for any of the classes of property owned by the communications service provider.

(3) Quality of service provided by the communications service provider, other than the imposition of a reporting requirement under subsection (d)(9)(A).

(4) Long term financing arrangements or other obligations of the communications service provider.

(5) Except as provided in subsection (d), any other aspect regulated by the commission under this title before July 1, 2009.

(f) After June 30, 2009, the commission has jurisdiction over a communications service provider only to the extent that jurisdiction is:

(1) expressly granted by state or federal law, including:

(A) a state or federal statute;

(B) a lawful order or regulation of the Federal Communications Commission; or

(C) an order or a ruling of a state or federal court having jurisdiction; or

(2) necessary to administer a federal law for which regulatory responsibility has been delegated to the commission by federal law.

SECTION 3. IC 8-1-2.8-5 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. As used in this chapter, **"deaf, hard of** hearing, ~~impaired~~ or speech impaired person" means a person who is so certified by a licensed physician, an otolaryngologist, a speech language pathologist, an audiologist, or a qualified state agency.

SECTION 4. IC 8-1-2.8-8, AS AMENDED BY P.L.27-2006, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. As used in this chapter, "local exchange company" or "LEC" refers to any communications service provider (as defined in IC 8-1-2.6-13(b)) that:

(1) has a certificate of territorial authority on file with the commission; and

(2) is required to provide dual party relay services to **deaf, hard of** hearing, ~~impaired~~ and speech impaired persons under federal law.

SECTION 5. IC 8-1-2.8-10, AS AMENDED BY P.L.27-2006, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. The general assembly finds and declares the following:

(1) That it is in the public interest of the state to promptly provide **deaf, hard of** hearing, ~~impaired~~ or speech impaired persons with access to telecommunications services that are functionally equivalent to those provided to hearing persons.

(2) That Title IV of the ADA mandates that each telephone company providing telephone service within the state must provide dual party relay services on or before July 26, 1993, to **deaf, hard of** hearing, ~~impaired~~ and speech impaired persons within the territorial area or areas it serves in a manner that meets or exceeds the requirements of regulations prescribed by the FCC.

(3) That the most efficient, cost effective, and fair method for LECs to provide dual party relay services to **deaf, hard of** hearing, ~~impaired~~ and speech impaired persons and to comply with the federal mandate without the use of tax revenues is the establishment of the Indiana Telephone Relay Access Corporation for the Hearing and Speech Impaired under this chapter.

(4) That the provision of dual party relay services to **deaf, hard of** hearing, ~~impaired~~ and speech impaired persons can be enhanced by providing in appropriate circumstances in the sole discretion of the InTRAC telecommunications devices that facilitate access to the dual party relay services.

SECTION 6. IC 8-1-2.8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. Beginning on June

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1, 1991, the commission shall require each LEC to impose a monthly surcharge in the amount of five cents ($0.05) on each residential and business line (or line equivalent) of its customers to fund and recover costs for developing and providing dual party relay services that may include in appropriate circumstances in the sole discretion of the InTRAC providing telecommunications devices to **deaf, hard of** hearing, ~~impaired~~ and speech impaired persons.

SECTION 7. IC 8-1-2.8-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 12. (a) The InTRAC may periodically apply to the commission for an adjustment in the amount of the monthly surcharge that a LEC must impose on its customers under this chapter. Before applying to the commission for such an adjustment, the InTRAC must do the following:

(1) Employ an independent accounting firm to review its surcharge determinations and to review and audit those accounts of the InTRAC and its members relevant to the surcharge.

(2) File with the commission in connection with its application a copy of the report prepared by the accounting firm under subdivision (1).

(b) When the InTRAC applies for an adjustment under this section, the commission may perform audits and tests to verify the calculation of the adjustment. However, the sole purpose of audits and tests by the commission must be to assure that the revenue produced by the surcharge is sufficient to cover the costs incurred by the InTRAC in providing services that meet the requirements imposed on telephone companies by the ADA. The costs incurred by the InTRAC include the following:

(1) Costs for the development, continued operation and improvement of dual party relay services that may include in appropriate circumstances in the sole discretion of the InTRAC providing telecommunications devices to **deaf, hard of** hearing, ~~impaired~~ and speech impaired persons.

(2) The administrative costs of the InTRAC.

(3) The amount of reasonable reserves necessary to meet future costs.

(4) The amounts paid by the InTRAC to each LEC to compensate the LEC for collection, inquiry, and other administrative services it provides for the surcharges.

(5) The amounts paid by the InTRAC to each LEC to compensate the LEC for the necessary costs incurred by the LEC in facilitating inter-connection with and effecting use of the dual party relay service for their respective customers.

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(c) It is the intent and purpose of this section that the InTRAC shall have available to it at all times sufficient funding to develop, provide for, and maintain dual party relay services that meet or exceed the requirements imposed by the ADA.

SECTION 8. IC 8-1-2.8-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 15. All costs incurred by a LEC as a result of its compliance with the ADA requirements to provide services to **deaf, hard of** hearing, ~~impaired~~ and speech impaired persons shall be accounted for separately and recovered as required by the ADA and the FCC.

SECTION 9. IC 8-1-2.8-18, AS AMENDED BY P.L.27-2006, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 18. The articles of incorporation of the InTRAC must provide the following:

(1) The name of the corporation shall be "Indiana Telephone Relay Access Corporation for the Hearing and Speech Impaired".

(2) The sole purpose for which the InTRAC shall be organized and operated is to provide at the lowest cost reasonably possible:

(A) on behalf of LECs and the citizens of Indiana; and

(B) in conjunction with LECs;

adequate and dependable dual party relay services that may include in appropriate circumstances in the sole discretion of the InTRAC telecommunications devices to **deaf, hard of** hearing, ~~impaired~~ and speech impaired persons within the territorial area in Indiana that LECs serve in a manner that meets or exceeds the requirements of regulations prescribed by the FCC.

(3) The InTRAC must have authority to perform any lawful act that is necessary, convenient, or expedient to accomplish the purpose for which the InTRAC is formed.

(4) No part of the net earnings of the InTRAC may inure to the benefit of any member, director, or officer of the InTRAC, nor shall any member of the InTRAC receive any earnings from the corporation except as follows:

(A) A member may be an independent contractor, a supplier, a vendor, or an authorized agent of the InTRAC and may receive fair and reasonable compensation for the member's provision of goods or services.

(B) An officer may receive reasonable compensation for services that the officer performs in the officer's capacity as an officer of the InTRAC.

(C) A director may be reimbursed for expenses incurred by the director in the performance of the director's duties.

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(5) The InTRAC may not:

(A) make an advancement for services to be performed in the future; or

(B) make a loan of money or property to any director or officer of the corporation.

(6) No member, director, or officer of the InTRAC or any private individual may share in the distribution of any of the assets of the InTRAC upon its dissolution.

(7) If there is a dissolution of the InTRAC, any of the assets of the InTRAC available for distribution shall be distributed to a charity:

(A) selected by the board of directors of the InTRAC; and

(B) having a purpose that includes providing services to hearing impaired and speech impaired persons.

(8) The InTRAC shall have one (1) class of members consisting of those communications service providers that are designated as authorized LECs by the commission.

(9) Each member of the InTRAC shall serve as a member for as long as the commission finds that the member is a LEC. A member's:

(A) right to vote at meetings of the members of the InTRAC; and

(B) right, title, and interest in or to the corporation;

cease on the termination of a member's membership.

(10) Each member present in person or by proxy at a meeting of the members of the InTRAC may cast one (1) vote upon each question voted upon at:

(A) all meetings of the members; and

(B) in any election of a director of the InTRAC.

(11) The board of directors of the InTRAC consists of seven (7) directors selected as follows:

(A) Six (6) directors elected by the members of the InTRAC.

(B) The director of the state office of deaf and hearing impaired services.

(12) The business, property, and affairs of the InTRAC are managed and controlled by the board of directors of the InTRAC.

SECTION 10. IC 8-1-17.5-25, AS AMENDED BY P.L.219-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 25. Notwithstanding any other law, the commission may exercise jurisdiction over a surviving corporation or successor corporation formed under this chapter only to do the following:

(1) Ensure compliance with IC 8-1-2.8 concerning the provision

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of dual party relay services to **deaf, hard of** hearing, ~~impaired~~ and speech impaired persons in Indiana.

(2) Perform the commission's duties under IC 8-1-19.5 concerning the administration of the 211 dialing code for communications service used to provide access to human services information and referrals.

(3) Enforce rules adopted under IC 8-1-29 to ensure that a customer of a telecommunications provider is not:

(A) switched to another telecommunications provider unless the customer authorizes the switch; or

(B) billed for services by a telecommunications provider that without the customer's authorization added the services to the customer's service order.

(4) Conduct proceedings under:

(A) the federal Telecommunications Act of 1996 (47 U.S.C. 151 et seq.); and

(B) IC 20-20-16;

concerning universal service and access to telecommunications service and equipment, including the designation of eligible telecommunications carriers under 47 U.S.C. 214.

(5) Perform the commission's duties under IC 8-1-2.6-1.5 or IC 8-1-2-5.

(6) Issue or maintain certificates of territorial authority for communications service providers under IC 8-1-32.5.

(7) Perform the commission's duties under IC 8-1-34 to issue and maintain certificates of franchise authority to multichannel video programming distributors offering video service to Indiana customers.

(8) Perform the commission's duties under IC 8-1-2.6-13(d)(9) concerning the reporting of information by communications service providers.

(9) Administer the Indiana lifeline assistance program under IC 8-1-36.

(10) Fulfill the commission's duties under any state or federal law concerning the administration of any universally applicable dialing code for any communications service.

(11) Perform the commission's duties under IC 8-1-2.3 with respect to assigned service areas for electricity suppliers.

(12) Issue:

(A) certificates of public convenience and necessity, certificates of territorial authority, and indeterminate permits under IC 8-1-2;

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(B) certificates of public convenience and necessity under IC 8-1-8.5; or

(C) certificates of public convenience and necessity under IC 8-1-8.7.

(13) Determine territorial disputes between water utilities under IC 8-1-2-86.5.

SECTION 11. IC 16-32-3-2, AS AMENDED BY P.L.155-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 2. (a) As used in this section, "public accommodation" means an establishment that caters or offers services, facilities, or goods to the general public. The term includes the following educational facilities:

(1) A nursery school.

(2) An elementary school.

(3) A secondary school.

(4) An undergraduate or postgraduate public or private institution.

(5) Other places of education.

(b) A person who:

(1) is totally or partially blind;

(2) is **deaf or hard of** hearing; ~~impaired;~~ or

(3) has a physical or mental disability;

is entitled to be accompanied by a service animal, especially trained for the purpose, in any public accommodation without being required to pay an extra charge for the service animal. However, the person is liable for any damage done to the accommodation by the service animal.

(c) A person who:

(1) refuses access to a public accommodation; or

(2) charges a fee for access to a public accommodation;

to a person who is totally or partially blind, who ~~has a~~ **is deaf or hard of** hearing, ~~impairment,~~ or who has a physical or mental disability, because that person is accompanied by a service animal commits a Class C infraction.

(d) A service animal trainer, while engaged in the training process of a service animal, is entitled to access to any public accommodation granted by this section.

SECTION 12. IC 16-35-8-9, AS ADDED BY P.L.119-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) The hearing aid assistance program is established.

(b) The following eligibility criteria apply for funding through the hearing aid assistance program:

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(1) The hearing aid must be:

(A) prescribed for a child by a physician who is licensed under IC 25-22.5; and

(B) prescribed, fitted, and dispensed for the child by an audiologist who is licensed under IC 25-35.6.

(2) The child has not received funding from the fund for a hearing aid for the applicable ear during the previous three (3) years.

(3) Reimbursement is not available through any of the following or is not sufficient to pay the full amount required for a hearing aid:

(A) A policy of accident and sickness insurance (IC 27-8-5).

(B) A health maintenance organization contract (IC 27-13).

(C) The Medicaid program (IC 12-15).

(D) The children's health insurance program (IC 12-17.6).

(E) The federal Medicare program or any other federal assistance program.

(c) The state department may use appropriate internal and external resources to administer the hearing aid assistance program in a cost effective manner.

(d) External foundations and other organizations that provide hearing aid assistance may register with the state department to provide a centralized location from which **deaf and hard of** hearing ~~impaired~~ individuals can obtain information regarding additional sources of hearing aid assistance.".

Page 1, delete lines 16 through 17, begin a new paragraph and insert:

"SECTION 14. IC 20-31-1-1, AS ADDED BY P.L.1-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. This article applies only to the following:

(1) Public schools.

(2) Except as provided in IC 20-31-7 and IC 20-31-9, nonpublic schools that voluntarily become accredited under IC 20-19-2-8.

(3) The Indiana School for the Blind and Visually Impaired and the Indiana School for the Deaf.

SECTION 15. IC 20-35-4-12, AS ADDED BY P.L.1-2005, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 12. Public schools may operate special education programs for **deaf and hard of** hearing ~~impaired~~ children at least six (6) months of age on an experimental basis upon the approval of the state superintendent and the state board.".

Page 2, delete lines 1 through 14.

Page 2, line 18, after "and" insert "**Hard of**".

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Page 2, line 18, delete "Impaired".

Page 2, between lines 18 and 19, begin a new paragraph and insert: "**Sec. 1. This chapter applies after June 30, 2013.**".

Page 2, line 19, delete "1." and insert "**2.**".

Page 2, line 20, after "and" insert "**hard of**".

Page 2, line 20, delete "impaired".

Page 2, line 22, delete "2." and insert "**3.**".

Page 2, line 22, after "and" insert "**hard of**".

Page 2, line 22, delete "impaired".

Page 2, line 24, delete "3." and insert "**4.**".

Page 2, line 24, after "duties" insert "**in an unbiased manner**".

Page 2, line 25, after "and children who are" insert "**hard of**".

Page 2, line 25, delete "impaired".

Page 2, line 26, delete "communication" and insert "**language skills**".

Page 2, line 26, delete "abilities:" and insert "**abilities, regardless of the mode of communication used:**".

Page 2, line 28, delete "and education" and insert "**education, and successful transitions**".

Page 2, line 28, after "deaf and" insert "**hard of hearing from birth through twenty-one (21) years of age and who are enrolled or preparing to enroll in early intervention services, preschool, elementary, or secondary school.**".

Page 2, delete line 29.

Page 2, line 30, delete "in-service education, coaching, and mentoring" and insert "**professional development opportunities for professionals who work with children who are deaf or hard of hearing.**".

Page 2, delete lines 31 through 35.

Page 2, line 37, after "and" insert "**hard of**".

Page 2, line 37, delete "impaired".

Page 2, line 38, delete "children." and insert "**children and providing support in each family's chosen method of communication and language for the family's child.**".

Page 2, delete line 42.

Page 3, delete line 1.

Page 3, line 2, delete "(C)" and insert "**(B)**".

Page 3, line 2, after "Communication" insert "**(including language)**".

Page 3, line 3, delete "(D)" and insert "**(C)**".

Page 3, line 4, delete "(E)" and insert "**(D)**".

Page 3, between lines 5 and 6, begin a new line block indented and

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insert:

"**(6) Assessing professionals who provide students with sign language interpreting, oral interpreting, cued speech transliteration, and captioning services.**".

Page 3, line 6, delete "(6)" and insert "**(7)**".

Page 3, line 6, delete "Supporting" and insert "**Providing consultation to**".

Page 3, line 7, delete "hearing impaired," and insert "**hard of hearing.**".

Page 3, delete lines 8 through 10.

Page 3, line 11, delete "(7)" and insert "**(8)**".

Page 3, line 12, delete "hearing impaired," and insert "**hard of hearing,**".

Page 3, line 16, delete "4." and insert "**5.**".

Page 3, line 17, delete "3" and insert "**4**".

Page 3, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 7. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 4-3-22-18, as added by this act, before October 1, 2012, the office of management and budget, shall submit a detailed transition plan to implement and administer the center for deaf and hard of hearing established in IC 20-35-11, as added by this act, to the budget committee. The office of management and budget shall develop the transition plan in consultation with, but not limited to, the following:**

(1) The chief executive officer of the Indiana School for the Deaf.

(2) A parent organization associated with the Indiana School for the Deaf.

(3) Parents of deaf or hard of hearing children who attend school in a regular classroom setting.

(4) The Indiana chapter of Hands and Voices.

(5) The Guide by Your Side Program.

(6) Hear Indiana.

(7) The Indiana Association of the Deaf.

(8) Oral deaf adults.

(9) The first steps program established under (IC 12-12.7-2).

(10) The family and social services administration, division of disability and rehabilitative services.

(11) The department of education.

(12) The state department of health.

(13) The St. Joseph Institute for the Deaf.

(14) Public school administrators.

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(15) Audiologists.

(b) The transition plan developed under subsection (a) must include the following:

(1) A description of the agency described in IC 4-3-22-18, as added by this act, that will provide office space and staff support for the center for deaf and the hard of hearing education established under IC 20-35-11, as added by this act.

(2) The estimated costs associated with the operation of the center for deaf and the hard of hearing education established under IC 20-35-11, as added by this act.

(3) A description of the fiscal impact on the Indiana School for the Deaf and the agency described in subdivision (1) resulting from the transfer of outreach and consultative service responsibilities.

(4) Any other information the office of management and budget determines is necessary.

(c) After receiving the transition plan under subsection (a), the office of management and budget shall, on or before October 15, 2012, post the transition plan on the office of management and budget's Internet web site.

(d) The budget committee shall consider the transition plan developed under subsection (a) in its preparation of the budget report and budget bill under IC 4-12-1-9 for the state fiscal years beginning on:

(1) July 1, 2013; and

(2) July 1, 2014.

(e) This SECTION expires December 31, 2013.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1367 as introduced.)

BEHNING, Chair

Committee Vote: yeas 8, nays 5.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1367 be amended to read as follows:

Page 12, line 28, delete "2" and insert "**3**".

Page 14, between lines 11 and 12, begin a new paragraph and insert:

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"**(b) Before the office of management and budget submits the transition plan under subsection (a), the office of management and budget shall conduct two (2) public meetings to receive public testimony. Of the public meetings required in this subsection, one (1) public meeting must take place in the northern half of Indiana and one (1) public meeting must take place in the southern half of Indiana, at a place designated by the office of management and budget.**".

Page 14, line 12, delete "(b)" and insert "**(c)**".

Page 14, between lines 13 and 14, begin a new line block indented and insert:

"**(1) A detailed description of how the center for deaf and hard of hearing education, as established in IC 20-35-11-3, as added by this act, will implement and carry out the duties described in IC 20-35-11-4, as added by this act.**".

Page 14, line 14, delete "(1)" and insert "**(2)**".

Page 14, line 18, delete "(2)" and insert "**(3)**".

Page 14, line 21, delete "(3)" and insert "**(4)**".

Page 14, line 25, delete "(4)" and insert "**(5)**".

Page 14, line 27, delete "(c)" and insert "**(d)**".

Page 14, line 31, delete "(d)" and insert "**(e)**".

Page 14, line 37, delete "(e)" and insert "**(f)**".

(Reference is to HB 1367 as printed January 28, 2012.)

NOE

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred House Bill No. 1367, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 4, after "budget" insert "**, in consultation with the Indiana School for the Deaf, the department of education, the state department of health, and the office of the secretary of family and social services,**".

Page 1, line 4, delete "determine" and insert "**recommend to the general assembly through the budget process**".

Page 1, line 6, after "IC 20-35-11." insert "**Until the center for deaf and hard of hearing education is established and operating, the**

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Indiana School for the Deaf shall continue to provide those services that will be transferred from the Indiana School for the Deaf to the center for deaf and hard of hearing education or local education agencies at the time the center is established and operating.".

Page 7, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 7. IC 8-1-2.8-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 14. A surcharge shall be collected on the regular monthly bill that a LEC sends to each of its customers. The surcharge may be separately identified on customers' bills as a special surcharge for the provision of services, including telecommunications devices as provided in section 10(4) of this chapter, to **deaf, hard of** hearing, ~~impaired~~ and speech impaired persons.".

Page 8, line 28, after "to" insert "**persons who are deaf, hard of**".

Page 8, line 29, after "hearing" insert ",".

Page 8, line 29, after "hearing" strike "impaired".

Page 8, line 29, after "speech impaired" insert ".".

Page 8, line 29, strike "persons.".

Page 11, delete lines 41 through 42, begin a new paragraph and insert:

"SECTION 14. IC 20-22-2-1, AS ADDED BY P.L.1-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. **(a)** The Indiana School for the Deaf is established as a state educational resource center that includes the following:

(1) A residential and day school.

(2) **Until the center for deaf and hard of hearing education is established and operating,** outreach services.

(3) **Until the center for deaf and hard of hearing education is established and operating,** consultative services to local educational agencies to assist the agencies in meeting the needs of locally enrolled students with hearing disabilities.

(b) The state board of finance and the budget agency may not transfer for use by or for the center for deaf and hard of hearing education any appropriation made to the Indiana School for the Deaf by P.L.229-2011.".

Page 12, delete lines 1 through 15.

Page 12, line 30, after "3." insert "**(a)**".

Page 12, between lines 31 and 32, begin a new paragraph and insert:

"**(b) The purpose of this article is to support parental choice under the Constitution of the State of Indiana, including the full continuum of communication options (including American sign**

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language, other forms of sign language, cued speech, listening and spoken language (oral), or any combination of these skills).".

Page 12, delete line 42.

Page 13, delete lines 1 through 2.

Page 13, line 3, delete "(3)" and insert "**(2)**".

Page 13, delete lines 4 through 13, begin a new line block indented and insert:

"**(3) Providing family support.**

(4) Developing child assessment service models, consistent with federal and state early childhood intervention and special education law, for the following:

(A) Audiological assessments.

(B) Social and developmental assessments.

(C) Communication (including language) assessments.

(D) Academic achievement assessments.

(5) Providing assessments of instruction, acoustics, and other environmental aspects.".

Page 13, line 29, after "budget," insert "**in consultation with the Indiana School for the Deaf, the department of education, the state department of health, and the office of the secretary of family and social services,**".

Page 13, line 31, after "hearing" insert "**education**".

Page 13, line 37, delete "A parent organization associated with the Indiana School" and insert "**The Parent Teacher Counselor Organization of the Indiana School for the Deaf.**".

Page 13, delete line 38.

Page 13, line 41, delete "The" and insert "**A representative of the**".

Page 13, delete line 42.

Page 14, line 1, delete "(6)" and insert "**(5)**".

Page 14, line 2, delete "(7)" and insert "**(6)**".

Page 14, line 3, delete "(8)" and insert "**(7)**".

Page 14, line 4, delete "(9)" and insert "**(8)**".

Page 14, line 4, delete "(IC 12-12.7-2)." and insert "**IC 12-12.7-2.**".

Page 14, line 5, delete "(10)" and insert "**(9)**".

Page 14, line 5, after "The" insert "**deaf and hard of hearing services (DHHS) program within the**".

Page 14, line 7, delete "(11)" and insert "**(10)**".

Page 14, line 8, delete "(12)" and insert "**(11)**".

Page 14, line 9, delete "(13) The" and insert "**(12) A representative of the**".

Page 14, line 10, delete "(14)" and insert "**(13)**".

Page 14, line 11, delete "(15)" and insert "**(14)**".

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Page 14, between lines 11 and 12, begin a new line block indented and insert:

"**(15) The director of the outreach program of the Indiana School for the Deaf.**".

Page 14, line 28, after "deaf and" delete "the".

Page 14, line 31, after "deaf and" delete "the".

Page 14, line 34, delete "(1)" and insert "**(2)**".

Page 14, line 39, delete "After receiving the transition plan under subsection (a), the" and insert "**The**".

Page 14, line 41, after "post the" insert "**final**".

Page 15, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 18. [EFFECTIVE UPON PASSAGE] **(a) The state board of education shall, before October 1, 2012, make recommendations to the legislative council (in an electronic format under IC 5-14-6) and to the budget committee concerning the unique and appropriate methods of evaluation and accountability that should be applied to the Indiana School for the Blind and Visually Impaired and the Indiana School for the Deaf. The state board of education shall include in its recommendation any proposed statutory changes or rule changes that the state board believes to be appropriate.**

(b) This SECTION expires July 1, 2013.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1367 as reprinted January 31, 2012.)

KENLEY, Chairperson

Committee Vote: Yeas 10, Nays 1.

SENATE MOTION

Madam President: I move that pursuant to Senate Rule 5(b), Senate Rule 5(a) be suspended as it applies to EHB 1367 and that EHB 1367 be listed first on the Senate calendar for consideration on second reading and third reading each day it is eligible and that EHB 1367 be the first bill called for action each day it is eligible on the Senate calendar.

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SENATE MOTION

Madam President: I move that Engrossed House Bill 1367 be amended to read as follows:

Page 13, line 7, after "choice" insert "**,**".

Page 13, line 8, delete " under the Constitution of the State of Indiana,".

Page 13, line 31, after "Providing" insert "**classroom**".

(Reference is to EHB 1367 as printed February 24, 2012.)

LAWSON C

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