Journal of the House

State of Indiana

115th General Assembly First Regular Session

Twenty-first Meeting Day **Tuesday Morning** **February 20, 2007**

The House convened at 9:00 a.m. with Speaker B. Patrick Bauer in the Chair.

The Speaker stated, "Having conferred with the Attorney General and no objection raised, the temporary House policy while the prayer lawsuit is pending in the courts will be a scripted prayer."

The Speaker read a prayer for wisdom and service (printed January 9, 2007).

The Pledge of Allegiance to the Flag was led by Representative William C. Cochran.

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

Austin
Avery
Bardon
Battles
Behning ⏏
Bell
Bischoff
Borders
Borror
Bosma
C. Brown
T. Brown
Buck
Buell
Burton
Candelaria Reardon
Cheatham
Cheney
Cherry
Cochran
Crawford
Crooks
Crouch ⏏
Davis ⏏
Day
Dembowski
Denbo
Dermody
Dickinson
Dobis
Dodge
Duncan
Dvorak
Eberhart
Elrod
Espich
Foley
Friend
Frizzell
Fry
GiaQuinta
Goodin
Grubb
Gutwein
E. Harris
T. Harris
Herrell
Hinkle
Hoy
Kersey
Klinker
Knollman
Koch
Kuzman
L. Lawson
Lehe
Leonard
Lutz
Mays
McClain
Micon
Moses
Murphy
Neese
Niezgodski
Noe ⏏
Orentlicher
Oxley
Pelath
Pflum
Pierce
Pond ⏏
Porter
Reske
Richardson
Ripley
Robertson
Ruppel
Saunders
M. Smith
V. Smith
Soliday
Stemler
Stevenson
Stilwell
Stutzman
Summers
Thomas
Thompson
Tincher
Torr
Turner
Tyler
Ulmer
VanHaaften
Walorski
Welch
Whetstone
Wolkins
Mr. Speaker

Roll Call 141: 95 present; 5 excused. The Speaker announced a quorum in attendance. [*NOTE*: ⏏ *indicates those who were excused*.]

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Wednesday, February 21, 2007, at 10:00 a.m.

STILWELL

Motion prevailed.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 1:15 p.m. with the Speaker in the Chair.

Representatives Behning and Crouch, who had been excused, were present.

The Speaker ordered the roll of the House to be called to determine the presence or absence or a quorum. Roll Call 142: 76 present.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1177, 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:

Page 1, line 4, delete "who is:" and insert "**who:**".
Page 1, line 5, after "(1)" insert "**is**".
Page 1, line 7, after "(2)" insert "**has been**".
Page 1, line 8, delete "payments;" and insert "**payments for more than thirty (30) days;**".
(Reference is to HB 1177 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 1.

STEVENSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred House Bill 1308, has had the same under consideration and begs leave to report the same

back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 7, nays 5.

PFLUM, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1351, 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:

Delete the title and insert the following:

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

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-1-14-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 15. (a) The fiscal body of a county may adopt an ordinance to require each political subdivision in the county that issues obligations after the effective date of the ordinance to recover on each obligation issued by the political subdivision an amount equal to five-tenths of one percent (.5%) of the amount of the obligation issued.**

(b) An amount recovered under an ordinance adopted under subsection (a) is considered a cost of issuance.

(c) Sixty percent (60%) of the amounts recovered under this section in a county shall be distributed to the units in the county that have established an affordable housing fund under IC 5-20-5-15.5 for deposit in the appropriate fund. The amount to be distributed to a unit is the amount available for distribution multiplied by a fraction. The numerator of the fraction is the population of the unit. The denominator of the fraction is the population of all units in the county that have established a fund. The population to be used for a county that establishes a fund is the population of the county outside any city or town that has established a fund. The population to be used for a consolidated city is the population of the county outside any excluded city that has established a fund.

(d) Forty percent (40%) of the amounts recovered under this section in a county shall be transferred to the treasurer of state for deposit in the state affordable housing and community development fund established under IC 5-20-4-7 for the purposes of the fund.

SECTION 2. IC 5-13-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) The secretary-investment manager shall administer, manage, and direct the affairs and activities of the board under the policies and under the control and direction of the board. In carrying out these duties, the secretary-investment manager has the power to do the following:

(1) Approve all accounts for salaries and allowable expenses of the board, including, but not limited to:

(A) the employment of general or special attorneys, consultants, and employees and agents as may be necessary to assist the secretary-investment manager in carrying out the duties of that office and to assist the board in its consideration of applications for a guarantee of an industrial development obligation or credit enhancement obligation guarantee; and

(B) the setting of compensation of persons employed under ~~subdivision~~ **clause** (A).

(2) Approve all expenses incidental to the operation of the public deposit insurance fund.

(3) Perform other duties and functions that may be delegated to the secretary-investment manager by the board or that are necessary to carry out the duties of the secretary-investment manager under this chapter.

(b) The secretary-investment manager shall keep a record of the proceedings of the board, and shall maintain and be custodian of all books, documents, and papers filed with the board, and its official seal. The secretary-investment manager may make copies of all minutes and other records and documents of the board, and may give certificates under seal of the board to the effect that the copies are true copies. All persons dealing with the board may rely upon the certificates.

(c) Each year, beginning in 2001, ~~and ending in 2011,~~ after the treasurer of state prepares the annual report required by IC 4-8.1-2-14, the secretary-investment manager shall determine:

(1) the amount of interest earned by the public deposit insurance fund during the state fiscal year ending on the preceding June 30, after deducting:

(A) all expenses and other costs of the board for depositories that were not paid from other sources during that state fiscal year; and

(B) all expenses and other costs associated with the Indiana education savings authority that were not paid from other sources during that state fiscal year; and

(2) the amount of interest earned during the state fiscal year ending on the preceding June 30 by the pension distribution fund established by subsection (g).

(d) On or before November 1 of each year, beginning in 2001 and ending in 2011, the public employees' retirement fund shall provide a report to the secretary-investment manager concerning the individual and aggregate payments made by all units of local government (as defined in IC 5-10.3-11-3) during the preceding calendar year for benefits under the police and firefighter pension funds established by IC 36-8-6, IC 36-8-7, and IC 36-8-7.5.

(e) On or before the last business day of November of each year, beginning in 2001 and ending in 2011, the secretary-investment manager shall compute the amount of earned interest to be distributed under this section to each unit of local government (as defined in IC 5-10.3-11-3) in accordance with subsection (h) according to the following formula:

STEP ONE: Add the amount determined under subsection (c)(1) to the amount determined under subsection (c)(2).

STEP TWO: Divide the STEP ONE sum by the aggregate amount of payments made by all units of local government during the preceding calendar year for benefits under the police and firefighter pension funds established by IC 36-8-6, IC 36-8-7, and IC 36-8-7.5, as reported under subsection (d).

STEP THREE: Multiply the STEP TWO quotient by the amount of payments made by each unit of local government during the preceding calendar year for benefits under the police and firefighter pension funds established by IC 36-8-6, IC 36-8-7, and IC 36-8-7.5, as reported under subsection (d).

(f) On or before the last business day of November of each year, beginning in 2012, the secretary-investment manager shall compute the amount of earned interest to be distributed under this section to the treasurer of state for deposit in the state affordable housing and community development fund established under IC 5-20-4-7 in an amount equal to the amount determined under subsection (c)(1).

~~(f)~~ **(g)** Subject to subsection ~~(j),~~ **(l),** on or before the last business day of December of each year, beginning in 2001 and ending in 2011, the secretary-investment manager shall provide to the auditor of state:

(1) a report setting forth the amounts to be distributed to units of local government, as determined under subsection (e); and

(2) a check payable from the public deposit insurance fund to the pension distribution fund established by subsection ~~(g)~~ **(j)** in an amount equal to the amount determined under

subsection (c)(1).

(h) Subject to subsection (l), on or before the last business day of December of each year, beginning in 2012, the secretary-investment manager shall provide to the auditor of state a report setting forth the amounts to be distributed to the state affordable housing and community development fund, as determined under subsection (f).

~~(g)~~ **(i)** The pension distribution fund is established. The pension distribution fund shall be administered by the treasurer of state. The treasurer of state shall invest money in the pension distribution fund not currently needed to meet the obligations of the pension distribution fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the pension distribution fund. Money in the pension distribution fund at the end of a state fiscal year does not revert to the state general fund.

~~(h)~~ **(j)** Subject to subsection ~~(j),~~ **(l),** on June 30 and October 1 of each year, beginning in 2002 and ending in 2012, the auditor of state shall distribute in two (2) equal installments from the pension distribution fund to the fiscal officer of each unit of local government identified under subsection (d) the amount computed for that unit under subsection (e) in November of the preceding year.

~~(i)~~ **(k)** Each unit of local government shall deposit distributions received under subsection ~~(h)~~ **(j)** in the pension fund or funds identified by the secretary-investment manager and shall use those distributions to pay a portion of the obligations with respect to the pension fund or funds.

~~(j)~~ **(l)** Before providing a check to the auditor of state under subsection ~~(f)(2)~~ **(g)(2)** in December of any year, the secretary-investment manager shall determine:

(1) the total amount of payments made from the public deposit insurance fund under IC 5-13-13-3 after June 30, 2001;

(2) the total amount of payments received by the board for depositories and deposited in the public deposit insurance fund under IC 5-13-13-3 after June 30, 2001; and

(3) the total amount of interest earned by the public deposit insurance fund after the first of the payments described in subdivision (1).

If the total amount of payments determined under subdivision (1) less the total amount of payments determined under subdivision (2) (referred to in this subsection as the "net draw on the fund") exceeds ten million dollars ($10,000,000) and also exceeds the total amount of interest determined under subdivision (3), the secretary-investment manager may not provide a check to the auditor of state under subsection ~~(f)(2)~~ **(g)(2)** and a distribution may not be made from the pension distribution fund under subsection ~~(h)~~ **(j)** in the following calendar year until the total amount of interest earned by the public deposit insurance fund equals the net draw on the fund. A check may not be provided under subsection ~~(f)(2)~~ **(g)(2)** and a distribution may not be made under subsection ~~(f)~~ **(g)** in any subsequent calendar year if a study conducted by the board under section 7(b) of this chapter demonstrates that payment of the distribution would reduce the balance of the public deposit insurance fund to a level insufficient to ensure the safekeeping and prompt payment of public funds to the extent they are not covered by insurance of any federal deposit insurance agency.".

Page 1, after line 17, begin a new line block indented and insert:

"**(7) Money deposited in the fund under IC 5-1-14-15.**

(8) Money deposited in the fund under IC 5-13-12-4.".

Page 2, between lines 41 and 42, begin a new paragraph and insert:

"SECTION 5. IC 6-2.5-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) In order to compensate retail merchants for collecting and timely remitting the state gross retail tax and the state use tax, every retail merchant, except a retail merchant referred to in subsection (c), is entitled to deduct and retain from the amount of those taxes otherwise required to be remitted under IC 6-2.5-7-5 or under this chapter, if timely remitted, a retail merchant's collection allowance.

(b) The allowance equals ~~eighty-three hundredths percent (0.83%)~~ **a percentage** of the retail merchant's state gross retail and use tax liability accrued during a ~~reporting period.~~ **calendar year, specified as follows:**

(1) Eighty-three hundredths percent (0.83%), if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year did not exceed seven hundred fifty thousand dollars ($750,000).

(2) Thirteen-hundredths percent (0.13%), if the retail merchant's state gross retail and use tax liability accrued during the state fiscal ending on June 30 of the immediately preceding calendar year was greater than or equal to seven hundred fifty thousand dollars ($750,000).

(c) A retail merchant described in IC 6-2.5-4-5 or IC 6-2.5-4-6 is not entitled to the allowance provided by this section.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1351 as printed February 14, 2007.)

and when so amended that said bill do pass.

Committee Vote: yeas 19, nays 4.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Interstate and International Cooperation, to which was referred House Bill 1566, 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:

Page 4, line 16, after "contracts" insert "**(including, notwithstanding section 1(d) of this chapter or any other law, contracts of state educational institutions)**".

Page 4, line 21, after "contracts" insert "**(including, notwithstanding section 1(d) of this chapter or any other law, contracts of state educational institutions)**".

Page 4, line 33, after "subcontracts" delete ";" and insert "**(including, notwithstanding section 1(d) of this chapter or any other law, contracts and subcontracts of state educational institutions);**".

(Reference is to HB 1566 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 0.

E. HARRIS, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1646, 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:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 36.

Page 10, delete lines 8 through 16.

Renumber all SECTIONS consecutively.

(Reference is to HB 1646 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 23, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1657, 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:

Page 10, after line 17, begin a new paragraph and insert:

"SECTION 7. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies only to salaries paid for pay periods beginning after June 30, 2007.**

(b) As used in this SECTION, "district forester" means any position on the state staffing table with a job code of "001LE2" and a description of "Forester Specialist 2".

(c) As used in this SECTION, "natural sciences manager" means any position on the state staffing table with a job code of "00ENS7" and a description of "Natural Sciences Manager E7".

(d) As used in this SECTION, "state staffing table" means a position classification plan and salary and wage schedule adopted by the state personnel department (established by IC 4-15-1.8-2) under IC 4-15-1.8-7.

(e) For pay periods beginning after June 30, 2007, the state personnel department shall equalize the salary and wage schedules for the positions of district forester and natural sciences manager so that both positions share the higher of the two (2) wage and salary schedules for these positions existing on April 1, 2007. For pay periods beginning after June 30, 2007, the department of natural resources (created by IC 14-9-1-1) shall increase the wages and salaries of all district foresters and natural sciences managers to bring the wages and salaries into conformity with the salary and wage schedules required by this SECTION.

SECTION 8. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1657 as printed February 13, 2007.)

and when so amended that said bill do pass.

Committee Vote: yeas 18, nays 2.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred House Bill 1739, 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:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure and to make an appropriation.

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

"SECTION 1. IC 10-13-3-41 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 41. (a) The criminal history data fund is established to provide funds for:**

(1) operating and maintaining the central repository for criminal history data; and

(2) establishing, operating, and maintaining an electronic system for the processing of handgun license applications and renewals.

In addition, at the discretion of the superintendent, the fund may be used to establish, operate, or maintain an electronic log to record the sale of drugs containing ephedrine or pseudoephedrine in accordance with IC 35-48-4-14.7.

(b) The fund shall be administered by the department.

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

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

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

SECTION 2. IC 35-47-2-3, AS AMENDED BY P.L.190-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) A person desiring a license to carry a handgun shall apply:

(1) to the chief of police or corresponding law enforcement officer of the municipality in which the applicant resides;

(2) if that municipality has no such officer, or if the applicant does not reside in a municipality, to the sheriff of the county in which the applicant resides after the applicant has obtained an application form prescribed by the superintendent; or

(3) if the applicant is a resident of another state and has a regular place of business or employment in Indiana, to the sheriff of the county in which the applicant has a regular place of business or employment.

The superintendent and local law enforcement agencies shall allow an applicant desiring to obtain or renew a license to carry a handgun to submit an application electronically under this chapter if ~~federal~~ funds are available to establish and maintain an electronic application system.

(b) The law enforcement agency which accepts an application for a handgun license shall collect the following application fees:

(1) From a person applying for a four (4) year handgun license, a ten dollar ($10) application fee, five dollars ($5) of which shall be refunded if the license is not issued.

(2) From a person applying for a lifetime handgun license who does not currently possess a valid Indiana handgun license, a fifty dollar ($50) application fee, thirty dollars ($30) of which shall be refunded if the license is not issued.

(3) From a person applying for a lifetime handgun license who currently possesses a valid Indiana handgun license, a forty dollar ($40) application fee, thirty dollars ($30) of which shall be refunded if the license is not issued.

Except as provided in subsection (h), the fee shall be deposited into the law enforcement agency's firearms training fund or other appropriate training activities fund and used by the agency to train law enforcement officers in the proper use of firearms or in other law enforcement duties, or to purchase firearms or firearm related equipment, or both for the law enforcement officers employed by the law enforcement agency. The state board of accounts shall establish rules for the proper accounting and expenditure of funds collected under this subsection.

(c) The officer to whom the application is made shall ascertain the applicant's name, full address, length of residence in the community, whether the applicant's residence is located within the limits of any city or town, the applicant's occupation, place of business or employment, criminal record, if any, and convictions (minor traffic offenses excepted), age, race, sex, nationality, date of birth, citizenship, height, weight, build, color of hair, color of eyes, scars and marks, whether the applicant has previously held an Indiana license to carry a handgun and, if so, the serial number of the license and year issued, whether the applicant's license has ever been suspended or revoked, and if so, the year and reason for the suspension or revocation, and the applicant's reason for desiring a license. The officer to whom the application is made shall conduct an investigation into the applicant's official records and verify thereby the applicant's character and reputation, and shall in addition verify for accuracy the information contained in the application, and shall forward this information together with the officer's recommendation for approval or disapproval and one (1) set of legible and classifiable fingerprints of the applicant to the superintendent.

(d) The superintendent may make whatever further investigation the superintendent deems necessary. Whenever disapproval is recommended, the officer to whom the application is made shall provide the superintendent and the applicant with

the officer's complete and specific reasons, in writing, for the recommendation of disapproval.

(e) If it appears to the superintendent that the applicant:

(1) has a proper reason for carrying a handgun;

(2) is of good character and reputation;

(3) is a proper person to be licensed; and

(4) is:

(A) a citizen of the United States; or

(B) not a citizen of the United States but is allowed to carry a firearm in the United States under federal law;

the superintendent shall issue to the applicant a qualified or an unlimited license to carry any handgun lawfully possessed by the applicant. The original license shall be delivered to the licensee. A copy shall be delivered to the officer to whom the application for license was made. A copy shall be retained by the superintendent for at least four (4) years in the case of a four (4) year license. The superintendent may adopt guidelines to establish a records retention policy for a lifetime license. A four (4) year license shall be valid for a period of four (4) years from the date of issue. A lifetime license is valid for the life of the individual receiving the license. The license of police officers, sheriffs or their deputies, and law enforcement officers of the United States government who have been honorably retired by a lawfully created pension board or its equivalent after twenty (20) or more years of service, shall be valid for the life of these individuals. However, a lifetime license is automatically revoked if the license holder does not remain a proper person.

(f) At the time a license is issued and delivered to a licensee under subsection (e), the superintendent shall include with the license information concerning handgun safety rules that:

(1) neither opposes nor supports an individual's right to bear arms; and

(2) is:

(A) recommended by a nonprofit educational organization that is dedicated to providing education on safe handling and use of firearms;

(B) prepared by the state police department; and

(C) approved by the superintendent.

The superintendent may not deny a license under this section because the information required under this subsection is unavailable at the time the superintendent would otherwise issue a license. The state police department may accept private donations or grants to defray the cost of printing and mailing the information required under this subsection.

(g) A license to carry a handgun shall not be issued to any person who:

(1) has been convicted of a felony;

(2) has had a license to carry a handgun suspended, unless the person's license has been reinstated;

(3) is under eighteen (18) years of age;

(4) is under twenty-three (23) years of age if the person has been adjudicated a delinquent child for an act that would be a felony if committed by an adult; or

(5) has been arrested for a Class A or Class B felony, or any other felony that was committed while armed with a deadly weapon or that involved the use of violence, if a court has found probable cause to believe that the person committed the offense charged.

In the case of an arrest under subdivision (5), a license to carry a handgun may be issued to a person who has been acquitted of the specific offense charged or if the charges for the specific offense are dismissed. The superintendent shall prescribe all forms to be used in connection with the administration of this chapter.

(h) If the law enforcement agency that charges a fee under subsection (b) is a city or town law enforcement agency, the fee shall be deposited in the law enforcement continuing education fund established under IC 5-2-8-2.

(i) If a person who holds a valid license to carry a handgun issued under this chapter:

(1) changes the person's name;

(2) changes the person's address; or

(3) experiences a change, including an arrest or a conviction, that may affect the person's status as a proper person (as defined in IC 35-47-1-7) or otherwise disqualify the person from holding a license;

the person shall, not later than thirty (30) days after the date of a change described under subdivision (3), and not later than sixty (60) days after the date of the change described under subdivision (1) or (2), notify the superintendent, in writing, of the event described under subdivision (3) or, in the case of a change under subdivision (1) or (2), the person's new name or new address.

(j) The state police shall indicate on the form for a license to carry a handgun the notification requirements of subsection (i).

(k) The state police department shall adopt rules under IC 4-22-2 to implement an electronic application system under subsection (a). Rules adopted under this section must require the superintendent to keep on file one (1) set of classifiable and legible fingerprints from every person who has received a license to carry a handgun so that a person who applies to renew a license will not be required to submit an additional set of fingerprints.

SECTION 3. IC 35-47-2-4, AS AMENDED BY P.L.190-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) Licenses to carry handguns shall be either qualified or unlimited, and are valid for:

(1) four (4) years from the date of issue in the case of a four (4) year license; or

(2) the life of the individual receiving the license in the case of a lifetime license.

A qualified license shall be issued for hunting and target practice. The superintendent may adopt rules imposing limitations on the use and carrying of handguns under a license when handguns are carried by a licensee as a condition of employment. Unlimited licenses shall be issued for the purpose of the protection of life and property.

(b) In addition to the application fee, the fee for:

(1) a qualified license shall be:

(A) five dollars ($5) for a four (4) year qualified license;

(B) twenty-five dollars ($25) for a lifetime qualified license from a person who does not currently possess a valid Indiana handgun license; or

(C) twenty dollars ($20) for a lifetime qualified license from a person who currently possesses a valid Indiana handgun license; and

(2) an unlimited license shall be:

(A) thirty dollars ($30) for a four (4) year unlimited license;

(B) seventy-five dollars ($75) for a lifetime unlimited license from a person who does not currently possess a valid Indiana handgun license; or

(C) sixty **dollars** ($60) for a lifetime unlimited license from a person who currently possesses a valid Indiana handgun license.

The superintendent shall charge a twenty dollar ($20) fee for the issuance of a duplicate license to replace a lost or damaged license. These fees shall be deposited in accordance with subsection (e).

(c) Licensed dealers are exempt from the payment of fees specified in subsection (b) for a qualified license or an unlimited license.

(d) The following officers of this state or the United States who have been honorably retired by a lawfully created pension board or its equivalent after at least twenty (20) years of service or because of a disability are exempt from the payment of fees specified in subsection (b):

(1) Police officers.
(2) Sheriffs or their deputies.
(3) Law enforcement officers.
(4) Correctional officers.

(e) Fees collected under this section shall be deposited in the ~~state general fund.~~ **criminal history data fund established by IC 10-13-3-41.**

(f) The superintendent may not issue a lifetime qualified license or a lifetime unlimited license to a person who is a resident of another state. The superintendent may issue a four (4) year qualified license or a four (4) year unlimited license to a person who is a resident of another state and who has a regular place of business or employment in Indiana as described in section 3(a)(3) of this chapter.".

Page 2, delete lines 1 through 11.
Page 2, line 14, delete "Notwithstanding any other law, a" and insert "A".
Page 2, line 15, reset in roman "complete and sign Bureau of".
Page 2, reset in roman line 16.
Page 2, line 19, delete "consent in writing, on a form to be".
Page 2, delete lines 20 through 42.
Delete pages 3 through 4.
Page 5, delete lines 1 through 20.
Page 5, line 24, reset in roman "Form 4473 completed".
Page 5, line 25, reset in roman "under".
Page 5, line 25, delete "the consent form required by".
Page 5, line 27, delete "IC 35-47-2.5-2.5" and insert "IC 10-13-3-40".
Page 5, delete lines 29 through 31.
Renumber all SECTIONS consecutively.
(Reference is to HB 1739 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

VAN HAAFTEN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1820, 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:

Page 1, between lines 5 and 6, begin a new paragraph and insert:

"**(b) Unless an employee notifies the state that the employee does not want to enroll in the deferred compensation plan, on day thirty-one (31) of the employee's employment:**

(1) the employee is automatically enrolled in the deferred compensation plan; and
(2) the state is authorized to begin deductions as otherwise allowed under this chapter.

(c) The auditor of state shall provide written notice to an employee of the provisions of this chapter. The notice provided under this subsection must:

(1) be provided:
(A) with the employee's first paycheck; and
(B) on paper that is a color that is separate and distinct from the color of the employee's paycheck;
(2) contain a statement concerning:
(A) the purposes of;
(B) procedures for notifying the state that the employee does not want to enroll in;
(C) the tax consequences of;
(D) the details of the state match for employee contribution to;
the deferred compensation plan;
(3) list the telephone number, electronic mail address, and other contact information for the auditor of state, who serves as plan administrator.".

Page 1, line 6, delete "(b)" and insert "**(d)**".
Page 1, line 13, delete "(c)" and insert "**(e)**".
Page 1, line 15, delete "(b)" and insert "**(d)**".
Page 2, line 3, delete "(d)" and insert "**(f)**".
(Reference is to HB 1820 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 21, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1830, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 15, nays 8.

CRAWFORD, Chair

Report adopted.

SPECIAL ORDER OF BUSINESS

House Bill 1257

The Speaker handed down for second reading House Bill 1257, which had been made a special order of business. The bill was reread a second time by title. The motion of Representative V. Smith was pending.

HOUSE MOTION
(Amendment 1257–2)

Mr. Speaker: I move that House Bill 1257 be amended to read as follows:

Page 3, line 17, delete "the following entities" and insert "**a state educational institution (as defined in IC 20-12-0.5-1) that offers a four (4) year baccalaureate degree**".
Page 3, line 18, after "IC 20-18-2-2.5)" insert "**in a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000)**".
Page 3, line 19, delete "SECTION" and insert "**SECTION.**".
Page 3, delete lines 20 through 23.
(Reference is to HB 1257 as printed February 14, 2007.)

V. SMITH

Motion prevailed.

HOUSE MOTION
(Amendment 1257–6)

Mr. Speaker: I move that House Bill 1257 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 20-24-1-9, AS ADDED BY P.L.1-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. "Sponsor" means, for a charter school, one (1) of the following:

(1) A governing body.
(2) A state educational institution (as defined in IC 20-12-0.5-1) that offers a four (4) year baccalaureate degree.
(3) The executive (as defined in IC 36-1-2-5) of a:
(A) consolidated; **or**
(B) second class (as classified in IC 36-4-1-1);
city.

SECTION 2. IC 20-24-3-5, AS ADDED BY P.L.1-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) This section applies only to a sponsor that is the executive of a ~~consolidated~~ city.

(b) Before issuing a charter, the sponsor must receive the approval of a majority of the members of the legislative body (as

defined in IC 36-1-2-9) of the ~~consolidated~~ city for the establishment of a charter school. The sponsor may issue charters for charter schools located in the ~~consolidated~~ city.".

Page 3, delete lines 16 through 24.

Renumber all SECTIONS consecutively.

(Reference is to HB 1257 as printed February 14, 2007.)

T. HARRIS

Upon request of Representatives T. Harris and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 143: yeas 45, nays 48. Motion failed.

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

HOUSE MOTION
(Amendment 1257–5)

Mr. Speaker: I move that House Bill 1257 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 20-24-1-9, AS ADDED BY P.L.1-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. "Sponsor" means, for a charter school, one (1) of the following:

(1) A governing body.

(2) A state educational institution (as defined in IC 20-12-0.5-1) that offers a four (4) year baccalaureate degree.

(3) The executive (as defined in IC 36-1-2-5) of a consolidated city.

(4) A private college or university that:

(A) has an accredited school of education; and

(B) is located in Indiana.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1257 as printed February 14, 2007.)

T. HARRIS

Upon request of Representatives T. Harris and Friend, the Speaker ordered the roll of the House to be called. Roll Call 144: yeas 45, nays 52. Motion failed.

HOUSE MOTION
(Amendment 1257–13)

Mr. Speaker: I move that House Bill 1257 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 20-20-13-3, AS ADDED BY P.L.218-2005, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. As used in sections 13 through 24 of this chapter, "school corporation" includes, except as otherwise provided in this chapter, the Indiana School for the Blind and Visually Impaired established by IC 20-21-2-1, ~~and~~ the Indiana School for the Deaf established by IC 20-22-2-1, **and a charter school established under IC 20-24.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1257 as printed February 14, 2007.)

BELL

Upon request of Representatives Bell and Behning, the Speaker ordered the roll of the House to be called. Roll Call 145: yeas 46, nays 50. Motion failed.

Representative Pelath was excused.

HOUSE MOTION
(Amendment 1257–11)

Mr. Speaker: I move that House Bill 1257 be amended to read as follows:

Delete the title and insert the following:

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

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 20-24-7-2, AS AMENDED BY P.L.2-2006, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Not later than the date established by the department for determining ADM, and after May 31 each year, the organizer shall submit to the department the following information on a form prescribed by the department:

(1) The number of students enrolled in the charter school.

(2) The name and address of each student.

(3) The name of the school corporation in which the student has legal settlement.

(4) The name of the school corporation, if any, that the student attended during the immediately preceding school year.

(5) The grade level in which the student will enroll in the charter school.

The department shall verify the accuracy of the information reported.

(b) This subsection applies after December 31 of the calendar year in which a charter school begins its initial operation. The department shall distribute to the organizer the state tuition support distribution. The department shall make a distribution under this subsection at the same time and in the same manner as the department makes a distribution of state tuition support under IC 20-43-2 to other school corporations.

(c) The department shall provide to the department of local government finance the following information:

(1) For each county, the number of students who:

(A) have legal settlement in the county; and

(B) attend a charter school.

(2) The school corporation in which each student described in subdivision (1) has legal settlement.

(3) The charter school that a student described in subdivision (1) attends and the county in which the charter school is located.

(4) The amount of the tuition support levy determined under IC 20-45-3-11 **and the transportation levies determined under IC 20-46-4 and IC 20-46-5, if the sponsor requires the charter school to provide transportation,** for each school corporation described in subdivision (2).

(5) The amount determined under STEP TWO of the following formula:

STEP ONE: Determine the product of:

(A) the target revenue per ADM (as defined in IC 20-43-1-26) determined for a charter school described in subdivision (3); multiplied by

(B) thirty-five hundredths (0.35).

STEP TWO: Determine the product of:

(A) the STEP ONE amount; multiplied by

(B) the current ADM of a charter school described in subdivision (3).

(6) The amount determined under STEP THREE of the following formula:

STEP ONE: Determine the number of students described in subdivision (1) who:

(A) attend the same charter school; and

(B) have legal settlement in the same school corporation located in the county.

STEP TWO: Determine the subdivision (5) STEP ONE amount for a charter school described in STEP ONE (A).

STEP THREE: Determine the product of:

(A) the STEP ONE amount; multiplied by

(B) the STEP TWO amount.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1257 as printed February14, 2007.)

BEHNING

Upon request of Representatives Behning and Crawford, the Speaker ordered the roll of the House to be called. Roll Call 146: yeas 45, nays 51. Motion failed.

HOUSE MOTION
(Amendment 1257–9)

Mr. Speaker: I move that House Bill 1257 be amended to read as follows:

Delete the title and insert the following:

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

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 20-24-6-7, AS AMENDED BY P.L.2-2006, SECTION 105, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) A charter school ~~shall~~ **may** participate in **any of** the following:

(1) The Indiana state teachers' retirement fund in accordance with IC 5-10.4.

(2) The public employees' retirement fund in accordance with IC 5-10.3.

(3) Another employee pension or retirement fund.

(b) **This subsection does not apply to a charter school employee who participates in a private pension or retirement program under subsection (e).** A person who teaches in a charter school is a member of the Indiana state teachers' retirement fund. Service in a charter school is creditable service for purposes of IC 5-10.4.

(c) **This subsection does not apply to a charter school employee who participates in a private pension or retirement program under subsection (e).** A person who:

(1) is a local school employee of a charter school; and

(2) is not eligible to participate in the Indiana state teachers' retirement fund;

is a member of the public employees' retirement fund.

(d) The boards of the Indiana state teachers' retirement fund and the public employees' retirement fund shall implement this section through the organizer of the charter school, subject to and conditioned upon receiving any approvals either board considers appropriate from the Internal Revenue Service and the United States Department of Labor.

(e) Charter school employees may participate in a private pension or retirement program, if the organizer of the charter school offers the opportunity to participate in the program.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1257 as printed February 14, 2007.)

BELL

Upon request of Representatives Bell and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 147: yeas 45, nays 50. Motion failed.

HOUSE MOTION
(Amendment 1257–21)

Mr. Speaker: I move that House Bill 1257 be amended to read as follows:

Page 2, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 3. IC 20-26-7-1, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) If a governing body of a school corporation determines that any real or personal property:

(1) is no longer needed for school purposes; or

(2) should, in the interests of the school corporation, be exchanged for other property;

the governing body may sell or exchange the property in accordance with IC 36-1-11.

(b) Money derived from the sale or exchange of property under this section shall be placed in any school fund:

(1) established under applicable law; and

(2) that the governing body considers appropriate.

(c) A governing body may not make a covenant that prohibits the sale of real property to another educational institution.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1257 as printed February 14, 2007.)

THOMPSON

Upon request of Representatives Thompson and Friend, the Speaker ordered the roll of the House to be called. Roll Call 148: yeas 46, nays 48. Motion failed.

Representative Pelath, who had been excused, was present.

HOUSE MOTION
(Amendment 1257–12)

Mr. Speaker: I move that House Bill 1257 be amended to read as follows:

Delete the title and insert the following:

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

Page 2, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 3. IC 20-43-6-3, AS ADDED BY P.L.2-2006, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 3. (a) A school corporation's total target revenue for a calendar year is the amount determined under the applicable provision of this section.

(b) This subsection applies to a school corporation **(other than a charter school described in subsection (d))** that has target revenue per ADM for a calendar year that is not equal to the school corporation's foundation amount for the calendar year. The school corporation's total target revenue for a calendar year is equal to the school corporation's guaranteed minimum revenue for the calendar year.

(c) This subsection applies to a school corporation **(other than a charter school described in subsection (d))** that has target revenue per ADM for a calendar year that is equal to the school corporation's foundation amount for the calendar year. The school corporation's total target revenue for a calendar year is the sum of the following:

(1) The school corporation's foundation amount for the calendar year multiplied by the school corporation's adjusted ADM for the current year.

(2) The amount of the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.

(3) The part of the school corporation's maximum permissible tuition support levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility or reopening an existing facility during the preceding year.

(d) This subsection applies to a charter school. A charter school's total target revenue for a calendar year equals the result of:

(1) the charter school's target revenue per ADM for the calendar year; multiplied by

(2) the charter school's current ADM.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1257 as printed February 14, 2007.)

BEHNING

Upon request of Representatives Behning and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 149: yeas 45, nays 50. Motion failed.

HOUSE MOTION
(Amendment 1257–15)

Mr. Speaker: I move that House Bill 1257 be amended to read as follows:

Page 2, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 3. IC 20-43-4-2, AS ADDED BY P.L.2-2006, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. A school corporation's ADM is the **average** number of eligible pupils enrolled in:

(1) the school corporation; or

(2) a transferee corporation;

on ~~a day to be fixed annually by the state board and as subsequently adjusted not later than January 30 under the rules adopted by the state board.~~ **three (3) days during the fall semester of a school year determined by the department.**

SECTION 4. IC 20-43-4-3, AS ADDED BY P.L.2-2006, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. **(a)** The initial day of the ADM count must fall within the first thirty (30) days of the school year. **The additional two (2) days of the ADM count must fall within the fall semester of the school year. The department shall announce the date of an ADM count to governing bodies not more than forty-eight (48) hours before the ADM count takes place.**

(b) However, if extreme patterns of:

(1) student in-migration;

(2) illness;

(3) natural disaster; or

(4) other unusual conditions in a particular school corporation's enrollment;

on ~~either~~ the ~~day fixed by the state board or on the subsequent adjustment date,~~ **days determined by the department,** cause the enrollment to be unrepresentative of the school corporation's enrollment throughout a school year, the state board may designate another day for determining the school corporation's enrollment.

SECTION 5. IC 20-43-4-4, AS ADDED BY P.L.2-2006, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. The ~~state board~~ **department** shall monitor changes that occur after the fall ADM ~~count~~ **determination** in the number of students enrolled in programs for children with disabilities. The ~~state board~~ **department** shall ~~(1) before December 2 of that same year; and (2)~~ before April 2 of the following calendar year make an adjusted count of students enrolled in programs for children with disabilities. The state superintendent shall certify ~~the December adjusted count to the budget committee before February 5 of the following year and~~ the April adjusted count not later than May 31 immediately after the date of the April adjusted count.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1257 as printed February 14, 2007.)

THOMPSON

Upon request of Representatives Thompson and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 150: yeas 46, nays 51. Motion failed. The bill was ordered engrossed.

With consent of the members, the Speaker returned to reports from committees.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1008, 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:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning human services and to make an appropriation.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-7-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) The following taxes are imposed, and shall be collected and paid as provided in this chapter, upon the sale, exchange, bartering, furnishing, giving away, or otherwise disposing of cigarettes within the state of Indiana:

(1) On cigarettes weighing not more than three (3) pounds per thousand (1,000), a tax at the rate of ~~two and seven hundred seventy-five thousandths of a cent ($0.02775)~~ **four and twenty-five thousandths cents ($0.04025)** per individual cigarette.

(2) On cigarettes weighing more than three (3) pounds per thousand (1,000), a tax at the rate of ~~three~~ **five** and ~~six thousand eight hundred eighty-one ten-thousandths of a cent ($0.036881)~~ **three hundred forty-nine thousandths cents ($0.05349)** per individual cigarette, except that if any cigarettes weighing more than three (3) pounds per thousand (1,000) shall be more than six and one-half (6 1/2) inches in length, they shall be taxable at the rate provided in subdivision (1), counting each two and three-fourths (2 3/4) inches (or fraction thereof) as a separate cigarette.

(b) Upon all cigarette papers, wrappers, or tubes, made or prepared for the purpose of making cigarettes, which are sold, exchanged, bartered, given away, or otherwise disposed of within the state of Indiana (other than to a manufacturer of cigarettes for use by him in the manufacture of cigarettes), the following taxes are imposed, and shall be collected and paid as provided in this chapter:

(1) On fifty (50) papers or less, a tax of one-half cent ($0.005).

(2) On more than fifty (50) papers but not more than one hundred (100) papers, a tax of one cent ($0.01).

(3) On more than one hundred (100) papers, one-half cent ($0.005) for each fifty (50) papers or fractional part thereof.

(4) On tubes, one cent ($0.01) for each fifty (50) tubes or fractional part thereof.

SECTION 2. IC 6-7-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. (a) Distributors who hold certificates and retailers shall be agents of the state in the collection of the taxes imposed by this chapter and the amount of the tax levied, assessed, and imposed by this chapter on cigarettes sold, exchanged, bartered, furnished, given away, or otherwise disposed of by distributors or to retailers. Distributors who hold certificates shall be agents of the department to affix the required stamps and shall be entitled to purchase the stamps from the department at a discount of ~~one and two-tenths~~ **nine tenths** percent ~~(1.2%)~~ **(0.9%)** of the amount of the tax stamps purchased, as compensation for their labor and expense.

(b) The department may permit distributors who hold certificates and who are admitted to do business in Indiana to pay for revenue stamps within thirty (30) days after the date of purchase. However, the privilege is extended upon the express condition that:

(1) except as provided in subsection (c), a bond or letter of credit satisfactory to the department, in an amount not less than the sales price of the stamps, is filed with the department; and

(2) proof of payment is made of all local property, state income, and excise taxes for which any such distributor may be liable. The bond or letter of credit, conditioned to secure payment for the stamps, shall be executed by the

distributor as principal and by a corporation duly authorized to engage in business as a surety company or financial institution in Indiana.

(c) If a distributor has at least five (5) consecutive years of good credit standing with the state, the distributor shall not be required to post a bond or letter of credit under subsection (b).

SECTION 3. IC 6-7-1-28.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 28.1. The taxes, registration fees, fines, or penalties collected under this chapter shall be deposited in the following manner:

(1) ~~Six~~ **Four** and ~~six-tenths~~ **ninety-four hundredths** percent ~~(6.6%)~~ **(4.94%)** of the money shall be deposited in a fund to be known as the cigarette tax fund.

(2) ~~Ninety-four~~ **Seventy** hundredths percent ~~(0.94%)~~ **(0.70%)** of the money shall be deposited in a fund to be known as the mental health centers fund.

(3) ~~Eighty-three~~ **Sixty-two** and ~~ninety-seven~~ **ninety-one** hundredths percent ~~(83.97%)~~ **(62.91%)** of the money shall be deposited in the state general fund.

(4) ~~Eight~~ **Six** and ~~forty-nine~~ **thirty-six** hundredths percent ~~(8.49%)~~ **(6.36%)** of the money shall be deposited into the pension relief fund established in IC 5-10.3-11.

(5) Twenty-five and nine hundredths percent (25.09%) of the money shall be deposited into the health coverage fund established by IC 12-17.9-14.

The money in the cigarette tax fund, the mental health centers fund, **the health coverage fund,** or the pension relief fund at the end of a fiscal year does not revert to the state general fund. However, if in any fiscal year, the amount allocated to a fund under subdivision (1) or (2) is less than the amount received in fiscal year 1977, then that fund shall be credited with the difference between the amount allocated and the amount received in fiscal year 1977, and the allocation for the fiscal year to the fund under subdivision (3) shall be reduced by the amount of that difference.

SECTION 4. IC 12-7-2-15.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 15.3. "Application agent", for purposes of IC 12-17.9, has the meaning set forth in IC 12-17.9-1-2.**

SECTION 5. IC 12-7-2-28, AS AMENDED BY P.L.145-2006, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 28. "Child" means the following:

(1) For purposes of IC 12-17.2, an individual who is less than eighteen (18) years of age.

(2) For purposes of IC 12-17.9, the meaning set forth in IC 12-17.9-1-3.

~~(2)~~ **(3)** For purposes of IC 12-26, the meaning set forth in IC 31-9-2-13(d).

SECTION 6. IC 12-7-2-76.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 76.4. "Employer sponsored health coverage" has the meaning set forth in IC 12-17.9-1-4.**

SECTION 7. IC 12-7-2-91 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 91. "Fund" means the following:

(1) For purposes of IC 12-12-1-9, the fund described in IC 12-12-1-9.

(2) For purposes of IC 12-13-8, the meaning set forth in IC 12-13-8-1.

(3) For purposes of IC 12-15-20, the meaning set forth in IC 12-15-20-1.

(4) For purposes of IC 12-17-12, the meaning set forth in IC 12-17-12-4.

(5) For purposes of IC 12-17.6, the meaning set forth in IC 12-17.6-1-3.

(6) For purposes of IC 12-17.9, the meaning set forth in IC 12-17.9-1-5.

~~(6)~~ **(7)** For purposes of IC 12-18-4, the meaning set forth in IC 12-18-4-1.

~~(7)~~ **(8)** For purposes of IC 12-18-5, the meaning set forth in IC 12-18-5-1.

~~(8)~~ **(9)** For purposes of IC 12-19-7, the meaning set forth in IC 12-19-7-2.

~~(9)~~ **(10)** For purposes of IC 12-23-2, the meaning set forth in IC 12-23-2-1.

~~(10)~~ **(11)** For purposes of IC 12-23-18, the meaning set forth in IC 12-23-18-4.

~~(11)~~ **(12)** For purposes of IC 12-24-6, the meaning set forth in IC 12-24-6-1.

~~(12)~~ **(13)** For purposes of IC 12-24-14, the meaning set forth in IC 12-24-14-1.

~~(13)~~ **(14)** For purposes of IC 12-30-7, the meaning set forth in IC 12-30-7-3.

SECTION 8. IC 12-7-2-134 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 134. "Office" means the following:

(1) Except as provided in subdivisions (2) and (3), the office of Medicaid policy and planning established by IC 12-8-6-1.

(2) For purposes of IC 12-10-13, the meaning set forth in IC 12-10-13-4.

(3) For purposes of IC 12-17.6, the meaning set forth in IC 12-17.6-1-4.

(4) For purposes of IC 12-17.9, the meaning set forth in IC 12-17.9-1-6.

SECTION 9. IC 12-7-2-146 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 146. "Program" refers to the following:

(1) For purposes of IC 12-10-7, the adult guardianship services program established by IC 12-10-7-5.

(2) For purposes of IC 12-10-10, the meaning set forth in IC 12-10-10-5.

(3) For purposes of IC 12-17.6, the meaning set forth in IC 12-17.6-1-5.

(4) For purposes of IC 12-17.9, the meaning set forth in IC 12-17.9-1-7.

SECTION 10. IC 12-7-2-164 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 164. "Resident" has the following meaning:

(1) For purposes of IC 12-10-15, the meaning set forth in IC 12-10-15-5.

(2) For purposes of IC 12-16, except IC 12-16-1, an individual who has actually resided in Indiana for at least ninety (90) days.

(3) For purposes of IC 12-17.9, the meaning set forth in IC 12-17.9-1-8.

~~(3)~~ **(4)** For purposes of IC 12-20-8, the meaning set forth in IC 12-20-8-1.

~~(4)~~ **(5)** For purposes of IC 12-24-5, the meaning set forth in IC 12-24-5-1.

SECTION 11. IC 12-7-2-196.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 196.7. "Usual and customary or reasonable charge", for purposes of IC 12-17.9, has the meaning set forth in IC 12-17.9-1-9.**

SECTION 12. IC 12-15-2-15.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 15.8. An individual who is less than nineteen (19) years of age and who is eligible for Medicaid under section 14 of this chapter is eligible to receive Medicaid until the earlier of the following:**

(1) The end of a period of twelve (12) consecutive months following a determination of the individual's eligibility for Medicaid.

(2) The individual becomes nineteen (19) years of age.

SECTION 13. IC 12-15-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) A pregnant woman:

(1) who is not described in 42 U.S.C. 1396a(a)(10)(A)(i); and

(2) whose family income does not exceed the income level established in subsection (b);

is eligible to receive Medicaid.

(b) A pregnant woman described in this section is eligible to receive Medicaid, subject to subsections (c) and (d) and 42 U.S.C. 1396a et seq., if her family income does not exceed ~~one~~ **two** hundred ~~fifty~~ percent ~~(150%)~~ **(200%)** of the federal income poverty level for the same size family.

(c) Medicaid made available to a pregnant woman described in this section is limited to medical assistance for services related to pregnancy, including prenatal, delivery, and postpartum services, and to other conditions that may complicate pregnancy.

(d) Medicaid is available to a pregnant woman described in this section for the duration of the pregnancy and for the sixty (60) day postpartum period that begins on the last day of the pregnancy, without regard to any change in income of the family of which she is a member during that time.

(e) The office may apply a resource standard in determining the eligibility of a pregnant woman described in this section.

SECTION 14. IC 12-17.6-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Subject to subsection (b), a child who is eligible for the program shall receive services from the program until the earlier of the following:

(1) The ~~child becomes financially ineligible.~~ **end of a period of twelve (12) consecutive months following the determination of the child's eligibility for the program.**

(2) The child becomes nineteen (19) years of age.

(b) Subsection (a) applies only if the child and the child's family comply with enrollment requirements.

SECTION 15. IC 12-17.9 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

ARTICLE 17.9. HEALTH COVERAGE

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Application agent" means an organization or individual, including a licensed health care provider, a school, a youth service agency, an employer, a labor union, a local chamber of commerce, a community organization, or another organization, that is approved by the office to assist in enrolling children in the program.

Sec. 3. "Child" means an individual who is less than nineteen (19) years of age.

Sec. 4. "Employer sponsored health coverage" means coverage that:

(1) is available through an employer; and

(2) provides coverage for health care services provided to a dependent child.

Sec. 5. "Fund" refers to the health coverage fund established by IC 12-17.9-14-1.

Sec. 6. "Office" refers to the office of the children's health insurance program established by IC 12-17.6-2-1.

Sec. 7. "Program" refers to the health coverage for children program established by IC 12-17.9-2-1.

Sec. 8. "Resident" means an individual who is:

(1) in Indiana for a purpose other than a temporary or transitory purpose during the taxable year; or

(2) domiciled in Indiana, but is absent from Indiana for a temporary or transitory purpose during the taxable year.

Sec. 9. "Usual and customary or reasonable charge" means a charge for health care services consistent with the average charge for similar health care services furnished by similar health care providers in a particular geographic area.

Chapter 2. Health Coverage for Children Program

Sec. 1. The health coverage for children program is established.

Sec. 2. The office shall administer the program.

Sec. 3. The office has the same powers and authority to administer the program as the powers and duties available to the office under IC 12-17.6.

Sec. 4. The office shall coordinate the program with existing children's health programs operated by state agencies.

Chapter 3. Eligibility

Sec. 1. To be eligible for the program, an individual must be a child:

(1) who is a resident;

(2) who is ineligible for coverage under the:

(A) children's health insurance program under IC 12-17.6; or

(B) Medicaid program under IC 12-15; and

(3) to whom one (1) of the following applies:

(A) The child has been without health coverage for a period of at least six (6) months.

(B) The child previously was covered by affordable dependent health coverage through a parent's employment and is no longer covered due to the parent's loss of employment.

(C) The child is a newborn for whom affordable private health coverage or employer sponsored health coverage is not available.

(D) The child, less than six (6) months before applying for coverage under the program, lost coverage under the children's health insurance program under IC 12-17.6 or the Medicaid program under IC 12-15.

Sec. 2. (a) An administrator licensed under IC 27-1-25, an insurer that holds a certificate of authority under IC 27 to issue or deliver a policy of accident and sickness insurance (as defined in IC 27-8-5-1), and a health maintenance organization that holds a certificate of authority under IC 27-13 shall provide health coverage data match information to the office for the use of the office in determining an individual's eligibility for the program.

(b) Personal information contained in the data provided to the office under subsection (a) is confidential and may not be disclosed or used for any other purpose.

(c) The office, in collaboration with the department of insurance, shall adopt rules under IC 4-22-2:

(1) to govern the exchange of information under this section; and

(2) that are consistent with laws relating to the confidentiality and privacy of personal information, including the federal Health Insurance Portability and Accountability Act.

Sec. 3. The office shall:

(1) monitor the availability and retention of employer sponsored health coverage; and

(2) modify a period specified in section 1(3) of this chapter as necessary to promote retention of private health coverage or employer sponsored health coverage and timely access to health care services. However, the period described in section 1(3)(A) of this chapter may not be less than six (6) months.

Sec. 4. The office may consider the affordability of dependent health coverage in making a determination concerning whether employer sponsored health coverage is available upon reemployment of a child's parent described in section 1(3)(B) of this chapter.

Sec. 5. A child who is eligible for the program under this chapter remains eligible for twelve (12) months if the child:

(1) remains a resident;

(2) is less than nineteen (19) years of age; and
(3) is not excluded under section 6 of this chapter.

Sec. 6. (a) A child is not eligible for coverage under the program if:
(1) the premium required under IC 12-17.9-8 has not been timely paid; or
(2) the child is an inpatient in a public institution or an institution for mental illness.

(b) If a premium described in subsection (a)(1) is not paid:
(1) the liability of the program is limited to benefits received under the program for the period for which premiums have been paid;
(2) the child is ineligible for reenrollment in the program for at least three (3) months;
(3) reenrollment in the program must be completed before the next covered medical visit; and
(4) the first month's premium after reenrollment must be paid before the next covered medical visit.

Chapter 4. Enrollment in Program

Sec. 1. The office shall develop procedures to allow application agents to assist in enrolling children in the program or other children's health programs.

Sec. 2. At the office's discretion, technical assistance payments may be made for approved applications facilitated by an application agent.

Chapter 5. Program Outreach and Marketing

Sec. 1. The office may provide grants to application agents and other community based organizations to educate the public about the availability of the program.

Sec. 2. The office shall adopt rules under IC 4-22-2 regarding performance standards and outcome measures expected of organizations that are awarded grants under this chapter, including penalties for nonperformance of contract standards.

Chapter 6. Health Coverage for Children

Sec. 1. The office shall purchase or provide for eligible children health coverage, except for nonemergency transportation, that is identical to the coverage provided for children under the children's health insurance program under IC 12-17.6.

Sec. 2. If cost effective, the office may, as an alternative to the coverage required under section 1 of this chapter, offer subsidies toward the cost of private health coverage or employer sponsored health coverage.

Sec. 3. The office may offer to a child who would be eligible for the program, but does not meet at least one (1) of the requirements of IC 12-17.9-3-1(3), the following:
(1) Partial coverage if the child is covered under a private, high deductible health coverage plan.
(2) A limited package of benefits if the child is covered under private health coverage or employer sponsored health coverage that does not provide dental, vision, or other particular benefits.

Sec. 4. (a) Subject to subsection (b), the office has sole discretion to determine the:
(1) content and availability of;
(2) terms of eligibility for; and
(3) efficacy and cost effectiveness of providing;
benefits described in sections 2 and 3 of this chapter.

(b) In making the determination under subsection (a), the office shall consider the need to promote retention of private health coverage and employer sponsored health coverage.

Chapter 7. Health Coverage for Adults Plan

Sec. 1. The office shall establish a plan through which the office purchases or provides health coverage to individuals who:
(1) are residents;
(2) are at least nineteen (19) years of age;
(3) have a family income equal to not more than one hundred percent (100%) of the federal income poverty level; and
(4) do not have coverage for health care services.

Sec. 2. The health coverage made available under this chapter must include benefits determined by the office.

Chapter 8. Cost Sharing

Sec. 1. (a) The office shall adopt rules under IC 4-22-2 to establish cost sharing requirements, including:
(1) copayments and coinsurance for health care services (other than well baby or well child health care services and age appropriate immunizations required by law); and
(2) monthly premiums for coverage under the program;
for children receiving coverage described in IC 12-17.9-6-1.

(b) Cost sharing requirements established under subsection (a) must be determined under a sliding scale based on family income.

(c) The office may periodically modify the cost sharing requirements established under this section.

Sec. 2. Children enrolled in private health coverage or employer sponsored health coverage for which a subsidy is provided as described in IC 12-17.9-6-2 are subject to the cost sharing provisions stated in the private health coverage or employer sponsored health coverage plan.

Sec. 3. Notwithstanding any other law, rates paid by the office for coverage under the program may not be considered in determining a usual and customary or reasonable charge.

Chapter 9. Study

Sec. 1. The office shall conduct a study that does the following:
(1) Establishes estimates of the following that are calculated using data compiled from particular regions of Indiana:
(A) Number of children who have health coverage.
(B) Number of children who do not have health coverage.
(C) Number of children who are eligible for Medicaid under IC 12-15 or the children's health insurance program under IC 12-17.6.
(D) Number of children who are enrolled in Medicaid under IC 12-15 or the children's health insurance program under IC 12-17.6.
(E) Number of children who have access to employer sponsored health coverage.
(F) Number of children who are enrolled in employer sponsored health coverage.
(2) Surveys families:
(A) whose children have access to employer sponsored health coverage; and
(B) who decline the coverage described in clause (A);
concerning the reason for declining the coverage.
(3) Ascertains, for the population of children accessing employer sponsored health coverage or who have access to the coverage, the:
(A) comprehensiveness of coverage available;
(B) cost sharing associated with the coverage; and
(C) amount of cost sharing currently required of employees.
(4) Measures health outcomes or other benefits for children using the program.
(5) Analyzes the effects of enrollment in the program on use of health care services by children after enrollment compared to use of health care services before enrollment.

Sec. 2. The study described in section 1 of this chapter must be conducted annually and must compare the data for each year with the data for the immediately preceding year.

Sec. 3. The office shall submit the results of the study conducted under this chapter to the governor and, in an electronic format under IC 5-14-6, to the legislative council as follows:

(1) Preliminary results, not later than July 1, 2009.
(2) Final results, not later than July 1, 2011.

Chapter 10. Consultation With Interested Parties

Sec. 1. The office shall present details regarding implementation of the program to the select joint commission on Medicaid oversight established by IC 2-5-26-3.

Sec. 2. The select joint commission on Medicaid oversight serves as the forum for health care providers, advocates, consumers, and other interested parties to advise the office with respect to the program.

Chapter 11. Federal Financial Participation

Sec. 1. The office, in cooperation with the office of Medicaid policy and planning established by IC 12-8-6-1, shall request necessary state plan amendments or waivers of federal requirements to allow receipt of federal funds to implement the program.

Sec. 2. The failure of a responsible federal agency to approve a state plan amendment or waiver requested under section 1 of this chapter does not prevent the implementation of this article.

Chapter 12. Rulemaking

Sec. 1. (a) The office shall adopt under IC 4-22-2 rules necessary to implement this article, including rules:
(1) regarding annual eligibility renewals;
(2) providing for reenrollment, grace periods, notice requirements, and hearing procedures related to a determination of ineligibility under IC 12-17.9-3-6(a)(1) or IC 12-17.9-3-6(b); and
(3) used to determine availability and affordability of private health coverage or employer sponsored health coverage, including consideration of:
(A) the percentage of income needed to purchase child or family health coverage;
(B) the availability of employer subsidies; and
(C) other relevant factors.

(b) The office may adopt emergency rules under IC 4-22-2-37.1 to implement this article.

Chapter 13. Subrogation

Sec. 1. The program is subrogated to all claims, demands, and causes of action for injuries to an individual covered under the program for all amounts paid by the program from the time of injury of the individual to the date of recovery on the claim, demand, or cause of action.

Chapter 14. Health Coverage Fund

Sec. 1. The health coverage fund is established to provide funding for the program and the plan established under IC 12-17.9-7-1. The fund shall be administered by the office.

Sec. 2. The fund consists of the following:
(1) Money deposited in the fund under IC 6-7-1-28.1.
(2) Donations to the fund.
(3) Appropriations made by the general assembly.

Sec. 3. The expenses of administering the fund shall be paid from money in the fund.

Sec. 4. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. (Interest that accrues from these investments shall be deposited in the fund.)

Sec. 5. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 6. There is annually appropriated to the office the money in the fund for the use of the office in carrying out the purposes described in section 1 of this chapter.

SECTION 16. [EFFECTIVE JULY 1, 2007] (a) As used in this SECTION, "task force" refers to the healthy Indiana task force established by subsection (b).

(b) The healthy Indiana task force is established to:
(1) study and provide guidance to the state concerning expanding coverage for health care services for all children in Indiana;
(2) develop methods to increase availability of affordable coverage for health care services for all Indiana residents; and
(3) make recommendations to the legislative council.

(c) The task force:
(1) shall operate under the policies governing study committees adopted by the legislative council; and
(2) may request funding from the legislative council to hire consultants.

(d) The affirmative votes of a majority of the voting members appointed to the task force are required for the task force to take action on any measure, including final reports.

(e) The task force consists of the following voting members:
(1) Eight (8) members appointed by the speaker of the house of representatives, three (3) of whom are appointed based on the recommendation of the minority leader of the house of representatives and none of whom are legislators.
(2) Eight (8) members appointed by the president pro tempore of the senate, three (3) of whom are appointed based on the recommendation of the minority leader of the senate and none of whom are legislators.

(f) In making appointments under subsection (e), the speaker of the house of representatives and the president pro tempore of the senate shall each appoint one (1) member representing each of the following:
(1) Hospitals.
(2) Insurance companies.
(3) Primary care providers.
(4) Health professionals who are not primary care providers.
(5) Minority health concern experts.
(6) Business.
(7) Organized labor.
(8) Consumers.

(g) The chairman of the legislative council shall appoint the chairperson of the task force.

(h) The task force shall report findings and make recommendations in a final report to the legislative council in an electronic format under IC 5-14-6 before November 1, 2008.

(i) The task force expires November 1, 2008, unless the legislative council extends the work of the task force until November 1, 2009.

(j) If the legislative council extends the work of the task force until November 1, 2009, the task force shall submit additional findings and recommendations in a final report before November 1, 2009.

(k) This SECTION expires January 1, 2010.

SECTION 17. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(b) The office shall apply to the United States Department of Health and Human Services for any amendment to the state Medicaid plan or demonstration waiver that is needed to implement IC 12-17.9, as added by this act.

(c) The office may not implement the amendment or waiver until the office files an affidavit with the governor attesting that the amendment or waiver applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not more than five (5) days after the office is notified that the amendment or waiver is approved.

(d) If the office receives approval for the amendment or waiver under this SECTION from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (c), the office shall implement the amendment or waiver not more than sixty (60) days after the governor receives the affidavit.

(e) The office may adopt rules under IC 4-22-2 to implement this SECTION.

SECTION 18. [EFFECTIVE JULY 1, 2007] **Notwithstanding IC 6-7-1-14, revenue stamps paid for before July 1, 2007, and in the possession of a distributor may be used after June 30, 2007, only if the full amount of the tax imposed by IC 6-7-1-12, as effective after June 30, 2007, and as amended by this act, is remitted to the department of state revenue under the procedures prescribed by the department.**

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

(Reference is to HB 1008 as printed February 16, 2007.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 11.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1067, 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:

Page 4, line 20, delete "that are" and insert "**may be**".

Page 4, line 20, delete "must be" and insert "**only to the extent permitted by the Internal Revenue Code and applicable regulations.**

(h) Before implementing this section, the board of the Indiana state teachers' retirement fund may obtain any approvals that the board considers necessary or appropriate from the Internal Revenue Service.".

Page 4, delete lines 21 through 22.

(Reference is to HB 1067 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 23, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1083, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 17, nays 1.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1173, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 23, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1461, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 22, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1470, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 16, nays 4.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1471, 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:

Page 6, line 13, reset in roman "If".

Page 6, line 13, after "department" insert "**an employer of a public safety officer who dies in the line of duty**".

Page 6, line 13, reset in roman "offers health".

Page 6, line 14, reset in roman "coverage for active employees,".

Page 6, line 14, delete "After June".

Page 6, line 15, delete "30, 2007,".

Page 6, line 15, delete "of a public safety officer who dies in the line".

Page 6, line 16, delete "of duty".

Page 6, line 16, after "shall" insert ", **after June 30, 2007,**".

Page 6, line 39, delete "An" and insert "**Subject to subsection (e), an**".

Page 7, after line 4, begin a new paragraph and insert:

"**(e) When a surviving spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq., the health coverage provided to the surviving spouse under this section must be converted to an insurance policy that is offered primarily to provide basic Medicare supplemental coverage (as described in IC 27-8-13).**".

(Reference is to HB 1471 as printed February 9, 2007.)

and when so amended that said bill do pass.

Committee Vote: yeas 18, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1480, 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:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 33-38-7-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) This section applies to a person who:

(1) is a judge participating under this chapter;

(2) ~~before becoming a judge~~ was appointed by a court to serve as a full-time referee, full-time commissioner, or full-time magistrate **either:**

(A) before becoming a judge; or

(B) after leaving an elected term on the bench;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) received credited service under the public employees' retirement fund for the employment described in subdivision (2).

(b) If a person becomes a participant in the judges' 1977 benefit system under section 1 of this chapter, credit for prior **or subsequent** service by the judge as a full-time referee, full-time commissioner, or full-time magistrate shall be granted under this chapter by the board if:

(1) the prior service was credited under the public employees' retirement fund;

(2) the state contributes to the judges' 1977 benefit system the amount the board determines necessary to amortize the prior service liability over a period determined by the board, but not more than ten (10) years; and

(3) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount the judge would have contributed if the judge had been a member of the judges' 1977 benefit system during the prior service.

(c) If the requirements of subsection (b)(2) and (b)(3) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the 1977 benefit system.

(d) An amortization schedule for contributions paid under subsection (b)(2) or (b)(3) must include interest at a rate determined by the board.

(e) The following provisions apply to a person described in subsection (a):

(1) A minimum benefit applies to participants receiving credit in the judges' 1977 benefit system from service covered by the public employees' retirement fund. The minimum benefit is payable at sixty-five (65) years of age and equals the actuarial equivalent of the vested retirement benefit that is:

(A) payable to the member at normal retirement under IC 5-10.2-4-1 as of the day before the transfer; and

(B) based solely on:

(i) creditable service;

(ii) the average of the annual compensation; and

(iii) the amount credited under IC 5-10.2 and IC 5-10.3 to the annuity savings account of the transferring member as of the day before the transfer.

(2) If the requirements of subsection (b)(2) and (b)(3) are satisfied, the board shall transfer from the public employees' retirement fund to the judges' 1977 benefit system the amount credited to the annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(3) The amount the state and the participant must contribute to the judges' 1977 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1977 benefit system by the board under subdivision (2).

(4) If the requirements of subsection (b)(2) and (b)(3) are satisfied, credit for prior service in the public employees' retirement fund as a full-time referee, full-time commissioner, or full-time magistrate is waived. Any credit for the prior service under the judges' 1977 benefit system may be granted only under subsection (b).

(5) Credit for prior service in the public employees' retirement fund for service other than as a full-time referee, full-time commissioner, or full-time magistrate remains under the public employees' retirement fund and may not be credited under the judges' 1977 benefit system.

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 2. IC 33-38-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) A participant shall make contributions to this fund of six percent (6%) of each payment of salary received for services as judge. However, the employer may elect to pay the contribution for the participant as a pickup under Section 414(h) of the Internal Revenue Code.

(b) Participants' contributions, other than participants' contributions paid by the employer, shall be deducted from the monthly salary of each participant by the auditor of state and by the county auditor and credited to the fund as provided in IC 33-38-6-21 and IC 33-38-6-22. However, a contribution is not required:

(1) because of any salary received after the participant has contributed to the fund for twenty-two (22) years; or

(2) during any period that the participant is not serving as judge.

(c) A participant may elect to make additional contributions after twenty-two (22) years.

SECTION 3. [EFFECTIVE JULY 1, 2007] **(a) The pension management oversight commission shall identify a way to harmonize the benefit structures of:**

(1) the judges' 1977 retirement, disability, and death benefit system established under IC 33-38-7; and

(2) the judges' 1985 retirement, disability, and death benefit system established under IC 33-38-8.

(b) This SECTION expires November 1, 2008.

(Reference is to HB 1480 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 21, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1538, 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:

Delete the title and insert the following:

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

Page 1, delete lines 1 through 15.

Delete pages 2 through 21.

Page 22, delete lines 1 through 24.

Page 25, line 19, delete "five hundred dollars ($500)" and insert "**two hundred dollars ($200)**".

Page 25, line 22, delete "five" and insert "**two**".

Page 25, line 23, delete "($500)" and insert "**($200)**".

Page 25, delete lines 32 through 42.

Page 26, delete lines 1 through 34.

Page 31, delete lines 17 through 42.
Delete page 32.
Page 33, delete lines 1 through 40.
Page 34, delete lines 23 through 42.
Delete page 35.
Page 36, delete lines 1 through 25.
Page 38, delete lines 32 through 42.
Page 39, delete lines 1 through 19.
Page 39, delete line 27.
Renumber all SECTIONS consecutively.
(Reference is to HB 1538 as printed February 9, 2007.)
and when so amended that said bill do pass.

Committee Vote: yeas 20, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1753, 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:

Page 2, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 2. IC 24-9-9-4, AS AMENDED BY P.L.246-2005, SECTION 209, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. On or before June 30 and December 31 of each year the auditor of state shall distribute:

(1) one dollar ~~and twenty-five cents ($1.25)~~ **($1)** of the mortgage recording fee to the **foreclosure prevention counseling and assistance fund established by IC 5-20-6-3;**

(2) twenty five cents ($0.25) to the state general fund; and

(3) one dollar and twenty-five cents ($1.25) of the mortgage recording fee to the homeowner protection unit account established by IC 4-6-12-9.".

Page 2, delete lines 40 through 42.
Page 3, delete lines 1 through 6.
(Reference is to HB 1753 as printed February 16, 2007.)
and when so amended that said bill do pass.

Committee Vote: yeas 22, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1767, 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:

Page 7, delete lines 8 through 9.
Page 7, line 10, delete "(5)" and insert "**(4)**".
Page 7, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 4. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] **(a) This SECTION applies to property that:**

(1) is located in Vermillion County;
(2) is used and owned by Ferguson Recreation Park, Inc.; and
(3) the auditor of Vermillion County, in a reversal of past county practice, determined that the property is not eligible for a property tax exemption under IC 6-1.1-10-16 for property taxes first due and payable in 2007.

(b) Notwithstanding any other law, the auditor of Vermillion County shall:

(1) waive the 2006 determination of the county auditor; and
(2) grant the appropriate exemption.

(c) A property tax exemption granted under this SECTION applies to property taxes first due and payable in 2007.

(d) The general assembly finds that:

(1) the property described in this SECTION was previously determined by the auditor of Vermillion County to be eligible to receive a property tax exemption under IC 6-1.1-10-16;
(2) the interest of taxpayer fairness requires a restoration of the property tax exemptions that have been denied for property taxes first due and payable in 2007; and
(3) the absence of other remedies for the taxpayers requires legislative action.

(e) This SECTION expires December 31, 2007.

SECTION 5. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] **(a) This SECTION applies to property that:**

(1) is located in Vermillion County;
(2) is used and owned by Blandford Sports Club;
(3) the auditor of Vermillion County, in a reversal of past county practice, determined that the property is not eligible for a property tax exemption under IC 6-1.1-10-16 for property taxes first due and payable in 2007; and
(4) was subject to a petition to the Indiana board of tax review that was denied by the Indiana board of tax review because the petitioner's Form 132 was untimely filed.

(b) Notwithstanding any other law, the auditor of the county in which the property described in subsection (a) is located shall:

(1) waive the 2006 determination of the county auditor;
(2) disregard the determination of the Indiana board of tax review; and
(3) grant the appropriate exemption.

(c) A property tax exemption granted under this SECTION applies to property taxes first due and payable in 2007.

(d) The general assembly finds that:

(1) the property described in this SECTION was previously determined by the auditor of Vermillion County to be eligible to receive a property tax exemption under IC 6-1.1-10-16;
(2) the interest of taxpayer fairness requires a restoration of the property tax exemptions that have been denied for property taxes first due and payable in 2007; and
(3) the absence of other remedies for the taxpayers requires legislative action.

(e) This SECTION expires December 31, 2007.

SECTION 6. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] **(a) This SECTION applies to property that:**

(1) is located in Vermillion County;
(2) is used and owned by the Universal Young Men's Club; and
(3) the auditor of Vermillion County, in a reversal of past county practice, determined that the property is not eligible for a property tax exemption under IC 6-1.1-10-16 for property taxes first due and payable in 2007.

(b) Notwithstanding any other law, the auditor of Vermillion County shall:

(1) waive the 2006 determination of the county auditor; and

(2) grant the appropriate exemption.

(c) A property tax exemption granted under this SECTION applies to property taxes first due and payable in 2007.

(d) The general assembly finds that:

(1) the property described in this SECTION was previously determined by the auditor of Vermillion County to be eligible to receive a property tax exemption under IC 6-1.1-10-16;

(2) the interest of taxpayer fairness requires a restoration of the property tax exemptions that have been denied for property taxes first due and payable in 2007; and

(3) the absence of other remedies for the taxpayers requires legislative action.

(e) This SECTION expires December 31, 2007.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1767 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 22, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1777, 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:

Page 1, line 2, delete "(a)".

Page 1, delete lines 4 through 8.

(Reference is to HB 1777 as printed February 14, 2007.)

and when so amended that said bill do pass.

Committee Vote: yeas 22, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1797, 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:

Page 1, delete lines 8 through 17.

Page 2, delete lines 1 through 9.

Page 2, line 10, delete "4" and insert "**2**".

Page 2, line 13, delete "5" and insert "**3**".

Page 2, line 13, after "progress" insert "**assistance**".

Page 2, line 14, delete "IC 20-31.5-3" and insert "**IC 20-31.5-2**".

Page 2, delete lines 15 through 16.

Page 2, line 17, delete "7" and insert "**4**".

Page 2, line 18, after "(1) a" insert "**middle school or junior high**".

Page 2, line 19, after "school" insert "**that includes grades 5 through 8**".

Page 2, line 20, delete "8" and insert "**5**".

Page 2, delete lines 23 through 42.

Delete pages 3 through 5.

Page 6, delete lines 1 through 37.

Page 6, line 38, delete "4" and insert "**2**".

Page 6, line 38, after "Academic" insert "**Achievement**".

Page 6, line 41, delete "department, including schools with students who do not:" and insert "**department.**".

Page 6, delete line 42.

Page 7, delete lines 1 through 3.

Page 7, line 4, after "academic" insert "**achievement**".

Page 7, line 6, after "academic" insert "**achievement**".

Page 7, line 10, delete "become a" and insert "**improve its academic progress**".

Page 7, line 11, delete "commendable school".

Page 7, line 14, delete "For a school that includes kindergarten and grades 1 and" and insert "**Subject to IC 20-31-5 and IC 20-29, a plan must include options to provide additional instructional activities for a student, group of students, or the school, including:**

(1) up to one and one-half (1.5) hours of additional instructional time added to the school day; or

(2) up to twenty (20) additional days added to the school year.".

Page 7, delete lines 15 through 42.

Page 8, delete lines 1 through 27.

Page 8, line 28, delete "For a school that includes grades 3 through 8, or any" and insert "**Subject to IC 20-29, an increase in professional development activities under IC 20-20-30 must be provided to provide the equivalent of ten (10) instructional days for all teachers in the school that focus on the specific curriculum and instructional strategies implemented by the school. Activities conducted under this section must provide for the school's certificated employees to continuously review and improve the school's curriculum and instruction.**

Sec. 6. The department shall develop guidelines and the state board shall adopt rules under IC 4-22-2 concerning the academic achievement assistance program based on effective practices to improve student achievement.

SECTION 2. [EFFECTIVE JULY 1, 2007] **(a) As used in this SECTION:**

(1) "committee" refers to a school's strategic and continuous school improvement and achievement committee described in IC 20-31-2-4;

(2) "department" refers to the department of education established by IC 20-19-3-1;

(3) "plan" refers to an academic achievement progress assistance plan developed under IC 20-31.5-2, as added by this act; and

(4) "school" has the meaning set forth in IC 20-31.5-1-4, as added by this act.

(b) The department shall develop and administer a pilot program to assist schools in carrying out the provisions of IC 20-31.5-2, as added by this act.

(c) The department shall accept an application from a school described in IC 20-31.5-2-1, as added by this act, for a grant to fund the plan developed by the school's committee.

(d) A school that receives a grant under this SECTION must submit a report to the department concerning the use of the grant.

(e) This SECTION expires June 30, 2009.".

Page 8, delete lines 29 through 42.

Page 9, delete lines 1 through 2.

Renumber all SECTIONS consecutively.

(Reference is to HB 1797 as printed February 2, 2007.)

and when so amended that said bill do pass.

Committee Vote: yeas 22, nays 0.

CRAWFORD, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1835, 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:

Page 18, between lines 41 and 42, begin a new paragraph and insert:

"**Sec. 6. "Gaming agent" means an individual described in**

IC 4-33-4.5.".

Page 18, line 42, delete "6." and insert "**7.**".

Page 19, line 2, delete "7." and insert "**8.**".

Page 19, line 4, delete "8." and insert "**9.**".

Page 19, line 6, delete "9." and insert "**10.**".

Page 19, line 35, delete "Adopt appropriate standards for" and insert "**Approve**".

Page 20, between lines 7 and 8, begin a new paragraph and insert:

"**Sec. 4. The commission shall be present through the commission's gaming agents during the time gambling games are being conducted at a racetrack to do the following:**

(1) Certify the revenue received by a racetrack from gambling games.

(2) Receive complaints from the public concerning the operation of gambling games.

(3) Conduct other investigations into the conduct of the gambling games and the maintenance of the equipment that the commission considers necessary and proper.

Sec. 5. The commission shall employ gaming agents to perform duties imposed by this article. A licensee shall, under rules adopted by the commission under IC 4-22-2, reimburse the commission for:

(1) training expenses incurred to train gaming agents;

(2) salaries and other expenses of staff required to support the gaming agents; and

(3) salaries and other expenses of the gaming agents required to be present during the time gambling games are being conducted at a racetrack.".

Page 20, line 8, delete "4." and insert "**6.**".

Page 27, line 5, delete "twenty percent (20%)" and insert "**five percent (5%)**".

Page 27, line 9, delete "twenty percent (20%)" and insert "**five percent (5%)**".

Page 27, between lines 11 and 12, begin a new line block indented and insert:

"**(3) An amount equal to fifteen percent (15%) of the tax revenue remitted under this chapter in the previous month to the local revenue sharing fund established under section 9 of this chapter.**".

Page 27, line 12, delete "(3)" and insert "**(4)**".

Page 28, between lines 14 and 15, begin a new paragraph and insert:

"**Sec. 9. (a) The local revenue sharing fund is established. The revenue sharing fund shall be administered by the treasurer of state. Money in the local revenue sharing fund does not revert to the state general fund at the end of a state fiscal year.**

(b) Money transferred to the local revenue sharing fund under section 5 of this chapter must be distributed to cities, counties, and towns in the same manner as the revenue sharing provided for under IC 4-33-13-5(e).

(c) Money received under this section may be used in the same manner as money received under IC 4-33-13-5(e).

(d) Money in the local revenue sharing fund is appropriated continuously for the purposes of this section.".

Page 30, between lines 41 and 42, begin a new paragraph and insert:

"**Chapter 11. Minority and Women's Business Participation**

Sec. 1. This chapter applies to persons holding a permit to operate a racetrack under IC 4-31-5 at which slot machines are licensed under this article.

Sec. 2. The general assembly declares that it is essential for minority and women's business enterprises to have the opportunity for full participation in the racetrack industry if minority and women's business enterprises are to obtain social and economic parity and if the economies of the cities, towns, and counties in which slot machines are operated at racetracks are to be stimulated as contemplated by this article.

Sec. 3. As used in this chapter, "minority" means a person who is one (1) of the following:

(1) Black.

(2) Hispanic.

(3) Asian American.

(4) Native American or Alaskan native.

Sec. 4. As used in this chapter, "minority business enterprise" means a business that is one (1) of the following:

(1) A sole proprietorship owned and controlled by a minority.

(2) A partnership or joint venture owned and controlled by minorities and in which:

(A) at least fifty-one percent (51%) of the ownership interest is held by at least one (1) minority; and

(B) the management and daily business operations are controlled by at least one (1) minority who also holds an ownership interest.

(3) A corporation or other entity in which:

(A) at least fifty-one percent (51%) of:

(i) the ownership interest; or

(ii) the stock, if stock is issued;

is held by at least one (1) minority; and

(B) the management and daily business operations are controlled by at least one (1) minority who also holds an ownership interest or stock.

Sec. 5. As used in this chapter, "women's business enterprise" means a business that is one (1) of the following:

(1) A sole proprietorship owned and controlled by a woman.

(2) A partnership or joint venture owned and controlled by women and in which:

(A) at least fifty-one percent (51%) of the ownership interest is held by at least one (1) woman; and

(B) the management and daily business operations are controlled by at least one (1) woman who also holds an ownership interest.

(3) A corporation or other entity in which:

(A) at least fifty-one percent (51%) of:

(i) the ownership interest; or

(ii) the stock, if stock is issued;

is held by at least one (1) woman; and

(B) the management and daily business operations are controlled by at least one (1) woman who also holds an ownership interest or stock.

Sec. 6. (a) As used in this section, "goods and services" does not include the following:

(1) Utilities and taxes.

(2) Financing costs, mortgages, loans, or other debt.

(3) Medical insurance.

(4) Fees and payments to a parent or an affiliated company of a permit holder or other fees and payments for goods and services supplied by nonaffiliated persons through an affiliated company for the use or benefit of the permit holder.

(5) Rents paid for real property or payments constituting the price of an interest in real property as a result of a real estate transaction.

(b) Notwithstanding any law or rule to the contrary, a permit holder shall establish goals of expending at least:

(1) fifteen percent (15%) of the dollar value of the permit holder's contracts for goods and services with minority business enterprises; and

(2) seven and one-half percent (7.5%) of the dollar value of the permit holder's contracts for goods and services with women's business enterprises.

(c) A permit holder shall submit quarterly reports to the commission that outline the total dollar value of contracts awarded for goods and services and the percentage of

contracts awarded to minority and women's business enterprises.

(d) A permit holder shall make a good faith effort to meet the requirements of this section and shall quarterly, unless otherwise directed by the commission, demonstrate to the commission at a public meeting that an effort was made to meet the requirements.

(e) A permit holder may fulfill not more than seventy percent (70%) of an obligation under this chapter by requiring a vendor to set aside a part of a contract for minority or women's business enterprises. Upon request, the permit holder shall provide the commission with proof of the amount of the set aside.

Sec. 7. If the commission determines that the provisions of this chapter relating to expenditures and assignments to minority and women's business enterprises have not been met, the commission may suspend, limit, or revoke the person's license or permit, or may fine or impose appropriate conditions on the license or permit to ensure that the goals for expenditures and assignments to minority and women's business enterprises are met. However, if a determination is made that a permit holder has failed to demonstrate compliance with this chapter, the person has ninety (90) days from the date of the determination of noncompliance to comply.

Sec. 8. The commission shall establish and administer a unified certification procedure for minority and women's business enterprises that do business with permit holders on contracts for goods and services or contracts for business.

Sec. 9. The commission shall supply permit holders with a list of minority and women's business enterprises the commission has certified under section 8 of this chapter. The commission shall review the list at least annually to determine the minority and women's business enterprises that should continue to be certified. The commission shall establish procedures for challenging the designation of a certified minority and women's business enterprise. The procedure must include proper notice and a hearing for all concerned parties.

Sec. 10. The commission shall adopt other rules necessary to interpret and implement this chapter.".

Page 31, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 16. IC 7.1-3-17.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) The commission may issue ~~an excursion and adjacent landsite~~ **a gaming site** permit to a person who has been issued:

(1) a riverboat owner's license under IC 4-33-6; ~~or~~

(2) an operating agent ~~(as defined in IC 4-33-2-14.5)~~ **contract under IC 4-33-6.5; or**

(3) a gambling game license under IC 4-35;

to sell alcoholic beverages for on-premises consumption only. The permit may be a single permit even though more than one (1) area constitutes the licensed premises of the permit.

(b) A permit issued under this chapter may be used:

(1) on the riverboat; and

(2) in a restaurant owned by the person who has been issued a riverboat owner's license or an operating agent contract (as defined in IC 4-33-2-14.6) if the restaurant is located on property adjacent to the property used by the riverboat for docking purposes.

SECTION 17. IC 7.1-3-17.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. The commission shall issue ~~an excursion and adjacent landsite~~ **a gaming site** permit without regard to the quota provisions of IC 7.1-3-22.

SECTION 18. IC 7.1-3-17.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. ~~An excursion adjacent landsite~~ **A gaming site** permit is not subject to the fee limitations otherwise set forth in IC 7.1.

SECTION 19. IC 7.1-3-17.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. The commission may adopt emergency rules under IC 4-22-2-37.1 concerning the following for ~~an excursion and adjacent landsite~~ **a gaming site** permit:

(1) Issuance.

(2) Scope.

(3) Permit fee.

(4) Expiration.

(5) Revocation and suspension.

SECTION 20. IC 7.1-3-17.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. The commission may adopt rules under IC 4-22-2 concerning the following for ~~an excursion permit and an adjacent landsite~~ **a gaming site** permit:

(1) Issuance.

(2) Scope.

(3) Permit fee.

(4) Expiration.

(5) Revocation and suspension.

SECTION 21. IC 7.1-3-17.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. Notwithstanding IC 7.1-5-5-7, the holder of ~~an excursion and adjacent landsite~~ **a gaming site** permit may, subject to the approval of the commission, provide alcoholic beverages to guests without charge at an event on the licensed premises if all the following requirements are met:

(1) The event is attended by not more than six hundred fifty (650) guests.

(2) The event is not more than six (6) hours in duration.

(3) Each alcoholic beverage dispensed to a guest:

(A) is entered into a cash register that records and itemizes on the cash register tape each alcoholic beverage dispensed; and

(B) is entered into a cash register as a sale and at the same price that is charged to the general public.

(4) At the conclusion of the event, all alcoholic beverages recorded on the cash register tape are paid by the holder of the ~~excursion and adjacent landsite~~ **gaming site** permit.

(5) All records of the alcoholic beverage sales, including the cash register tape, shall be maintained by the holder of the ~~excursion and adjacent landsite~~ **gaming site** permit for not less than two (2) years.

(6) The holder of the ~~excursion and adjacent landsite~~ **gaming site** permit complies with the rules of the commission.

SECTION 22. IC 7.1-3-17.7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) **Except as provided in subsection (c),** the commission may issue a horse track permit to a person who has been issued a recognized meeting permit under IC 4-31-5 to sell alcoholic beverages for on-premises consumption only. The permit may be a single permit even though more than one (1) area constitutes the licensed premises of the permit.

(b) The commission may issue a satellite facility permit to a person who has been issued a satellite facility license under IC 4-31-5.5 to sell alcoholic beverages for on-premises consumption only.

(c) This chapter does not apply to a slot machine facility licensed under IC 4-35.

SECTION 23. IC 7.1-3-21-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The provisions of sections 4, 5, 5.2, and 5.4 of this chapter concerning retail and dealer partnerships, corporations, limited partnerships, and limited liability companies shall not apply to the issuance of:

(1) a dining car permit;

(2) **a** boat permit;

(3) **a** drug store permit;

(4) **a** grocery store permit;
(5) **a** hotel permit;
(6) **an** airplane permit;
(7) ~~an excursion and adjacent landsite~~ **a gaming site** permit;
(8) a horse track permit;
(9) a satellite facility permit; or
(10) a retail permit to an establishment:
(A) that is sufficiently served by adequate law enforcement at its permit location; and
(B) whose annual gross food sales at the permit location:
(i) exceed one hundred thousand dollars ($100,000); or
(ii) in the case of a new application and as proved by the applicant to the local board and the commission, will exceed two hundred thousand dollars ($200,000) by the end of the two (2) year period from the date of the issuance of the permit.

(b) The commission shall not issue a permit listed in subsection (a) to a foreign:
(1) corporation;
(2) limited partnership; or
(3) limited liability company;
that is not duly qualified to do business in Indiana.

SECTION 24. IC 7.1-5-5-7, AS AMENDED BY P.L.224-2005, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) It is unlawful for a permittee in a sale or contract to sell alcoholic beverages to discriminate between purchasers by granting a price, discount, allowance, or service charge which is not available to all purchasers at the same time. However, this section does not authorize or require a permittee to sell to a person to whom the permittee is not authorized to sell under this title.

(b) A premises that operates at least two (2) restaurants that are separate and distinct from each other on the same premises may provide for a different schedule of prices in each restaurant if each restaurant conforms to all other laws and rules of the commission regarding pricing and price discrimination in its separate and distinct areas.

(c) This section does not apply to the holder of ~~an excursion and adjacent landsite~~ **a gaming site** permit that complies with IC 7.1-3-17.5-6.

(d) Notwithstanding subsection (a), a beer wholesaler may offer a special discount price to a beer dealer or beer retailer for beer or flavored malt beverage, if the beer or flavored malt beverage:
(1) is a brand or package the beer wholesaler has discontinued; or
(2) will expire in not more than:
(A) twenty (20) days for packaged beer or packaged flavored malt beverage; and
(B) ten (10) days for draft beer or draft flavored malt beverage.

(e) The special discount under subsection (d) only applies to beer or flavored malt beverage that will expire and be subject to removal from retailer or dealer shelves in accordance with the primary source of supply's coding data clearly identified on the container.

(f) Any beer or flavored malt beverage sold at a special discount price under subsection (d) shall be accompanied by an invoice clearly designating, in addition to all other information required by law, all the following information:
(1) The date of delivery.
(2) The expiration date of each brand, package type, and quantity delivered.
(3) The per unit price for each package.".

Page 32, line 15, delete "eighteen (18) months." and insert "**twenty-four (24) months.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1835 as printed February 16, 2007.)
and when so amended that said bill do pass.

Committee Vote: yeas 14, nays 8.

CRAWFORD, Chair

Report adopted.

ENGROSSED HOUSE BILLS ON THIRD READING

Engrossed House Bill 1009

Representative Micon called down Engrossed House Bill 1009 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

On the motion of Representative C. Brown, the previous question was called. Roll Call 151: yeas 52, nays 45. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Kenley and Lanane.

The Speaker Pro Tempore yielded the gavel to the Speaker.

Engrossed House Bill 1033

Representative Hoy called down Engrossed House Bill 1033 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

On the motion of Representative C. Brown, the previous question was called. Representative Moses was excused from voting, pursuant to House Rule 46. Roll Call 152: yeas 82, nays 10. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Becker.

Engrossed House Bill 1046

Representative Dickinson called down Engrossed House Bill 1046 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 153: yeas 96, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Kruse.

Engrossed House Bill 1051

Representative Crooks called down Engrossed House Bill 1051 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 154: yeas 94, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Wyss and Hume.

Engrossed House Bill 1085

Representative Kuzman called down Engrossed House Bill 1085 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 155: yeas 91, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Nugent and Skinner.

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

Engrossed House Bill 1100

Representative Kersey called down Engrossed House Bill 1100 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

On the motion of Representative C. Brown, the previous question was called. Roll Call 156: yeas 56, nays 39. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Merritt and R. Young.

Engrossed House Bill 1115

Representative Duncan called down Engrossed House Bill 1115 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 157: yeas 81, nays 13. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Jackman and Sipes.

Engrossed House Bill 1116

Representative Cheatham called down Engrossed House Bill 1116 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 158: yeas 94, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Landske and Rogers.

Engrossed House Bill 1127

Representative Fry called down Engrossed House Bill 1127 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Representative Murphy was excused from voting, pursuant to House Rule 46. Representative Roll Call 159: yeas 54, nays 42. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators R. Young and Broden.

Engrossed House Bill 1128

Representative Stilwell called down Engrossed House Bill 1128 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 160: yeas 95, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Becker and R. Young.

Engrossed House Bill 1140

Representative Herrell called down Engrossed House Bill 1140 for third reading:

A BILL FOR AN ACT concerning utilities and transportation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 161: yeas 53, nays 42. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Wyss and Rogers.

Engrossed House Bill 1157

Representative Cheney called down Engrossed House Bill 1157 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 162: yeas 55, nays 40. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Kruse, Tallian, and Mrvan.

Engrossed House Bill 1166

Representative Cochran called down Engrossed House Bill 1166 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 163: yeas 93, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was

directed to inform the Senate of the passage of the bill. Senate sponsors: Senators C. Lawson and Sipes.

Engrossed House Bill 1171

Representative Goodin called down Engrossed House Bill 1171 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 164: yeas 91, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Heinold and Weatherwax.

Engrossed House Bill 1192

Representative Ulmer called down Engrossed House Bill 1192 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 165: yeas 89, nays 5. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Gard.

Engrossed House Bill 1193

Representative Crawford called down Engrossed House Bill 1193 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 166: yeas 95, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Miller and Breaux.

Engrossed House Bill 1204

Representative Pelath called down Engrossed House Bill 1204 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 167: yeas 95, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Delph.

Engrossed House Bill 1211

Representative VanHaaften called down Engrossed House Bill 1211 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 168: yeas 95, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Boots and Broden.

Engrossed House Bill 1214

Representative Pierce called down Engrossed House Bill 1214 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 169: yeas 93, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Bray.

Engrossed House Bill 1237

Representative Welch called down Engrossed House Bill 1237 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

HOUSE MOTION

Mr. Speaker: Pursuant to Rule 81, I move that the question be divided on Engrossed House Bill 1237. Engrossed House Bill 1237 contains two distinct questions. SECTIONS five and fourteen deal with funding of the local road and street account. The remainder of the bill addresses safety belts for motor vehicles. These questions are clearly divisible pursuant to Rule 81. Each question should be considered by this House separately.

MURPHY

Representative Pelath rose to a point of order suggesting the motion of Representative Murphy was out of order because Rule 81 pertains to dividing a motion rather than a bill. The Speaker ruled the point was well taken and the motion was out of order.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Murphy's motion is out of order. House Bill 1237 assuredly contains the two distinct questions of safety belts and funding of local streets and, therefore, should be divided.

WHETSTONE
MURPHY

The Speaker Pro Tempore yielded the gavel to the Speaker.

The question was, Shall the ruling of the Chair be sustained? Roll Call 170: yeas 50, nays 46. The ruling of the Chair was sustained.

The question then was, Shall the bill pass? Roll Call 171: yeas 55, nays 41. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Wyss and Rogers.

Engrossed House Bill 1241

Representative Welch called down Engrossed House Bill 1241 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

The bill was read a third time by sections and placed upon its

passage. The question was, Shall the bill pass?

Roll Call 172: yeas 95, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Miller and Simpson.

Engrossed House Bill 1258

Representative V. Smith called down Engrossed House Bill 1258 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 173: yeas 51, nays 46. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Kruse and Sipes.

Engrossed House Bill 1269

Representative Friend called down Engrossed House Bill 1269 for third reading:

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

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 174: yeas 52, nays 41. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Jackman and C. Lawson.

With consent of the members, the Speaker returned to bills on second reading.

HOUSE BILLS ON SECOND READING

House Bill 1477

Representative Mays called down House Bill 1477 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1477–1)

Mr. Speaker: I move that House Bill 1477 be amended to read as follows:

Delete the title and insert the following:

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

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 7.1-6-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) An enforcement officer vested with full police powers and duties may engage a person less than ~~eighteen (18)~~ **twenty-one (21)** years of age as part of an enforcement action under this article if the initial or contemporaneous receipt or purchase of a tobacco product by a person less than ~~eighteen (18)~~ **twenty-one (21)** years of age occurs under the direction of an enforcement officer vested with full police powers and duties and is part of the enforcement action.

(b) An enforcement officer vested with full police powers and duties shall not:

(1) recruit or attempt to recruit a person less than ~~eighteen (18)~~ **twenty-one (21)** years of age to participate in an enforcement action under subsection (a) at the scene of a violation of section 2 of this chapter; or

(2) allow a person less than ~~eighteen (18)~~ **twenty-one (21)** years of age to purchase or receive a tobacco product as part of an enforcement action under subsection (a) without the written permission of the person's parents or legal guardians.

SECTION 2. IC 24-3-5-5, AS AMENDED BY P.L.160-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) A merchant who mails or ships cigarettes as part of a delivery sale shall:

(1) use a mailing or shipping service that requires the customer or a person ~~at least eighteen (18) years of age who is~~ designated by the customer, **both of whom must be at least twenty-one (21) years of age,** to:

(A) sign to accept delivery of the cigarettes; and

(B) present a valid operator's license issued under IC 9-24-3 or an identification card issued under IC 9-24-16 if the customer or the customer's designee, in the opinion of the delivery agent or employee of the mailing or shipping service, appears to be less than twenty-seven (27) years of age;

(2) provide to the mailing or shipping service used under subdivision (1) proof of compliance with section 6(a) of this chapter; and

(3) include the following statement in bold type or capital letters on an invoice or shipping document:

INDIANA LAW PROHIBITS THE MAILING OR SHIPPING OF CIGARETTES TO A PERSON LESS THAN ~~EIGHTEEN (18)~~ **TWENTY-ONE (21)** YEARS OF AGE AND REQUIRES PAYMENT OF ALL APPLICABLE TAXES.

(b) The commission may impose a civil penalty of not more than one thousand dollars ($1,000) if a mailing or shipping service:

(1) delivers cigarettes as part of a delivery sale without first receiving proof from the merchant of compliance with section 6(a) of this chapter; or

(2) fails to obtain a signature and proof of identification of the customer or the customer's designee under subsection (a)(1).

The commission shall deposit amounts collected under this subsection into the youth tobacco education and enforcement fund established by IC 7.1-6-2-6.

(c) The following apply to a merchant that mails or ships cigarettes as part of a delivery sale without using a third party service as required by subsection (a)(1):

(1) The merchant shall require the customer or a person ~~at least eighteen (18) years of age who is~~ designated by the customer, **both of whom must be at least twenty-one (21) years of age,** to:

(A) sign to accept delivery of the cigarettes; and

(B) present a valid operator's license issued under IC 9-24-3 or identification card issued under IC 9-24-16 if the customer or the customer's designee, in the opinion of the merchant or the merchant's employee making the delivery, appears to be less than twenty-seven (27) years of age.

(2) The commission may impose a civil penalty of not more than one thousand dollars ($1,000) if the merchant:

(A) delivers the cigarettes without first complying with section 6(a) of this chapter; or

(B) fails to obtain a signature and proof of identification of the customer or the customer's designee under subdivision (1).

The commission shall deposit amounts collected under this subdivision into the youth tobacco education and enforcement fund established by IC 7.1-6-2-6.

(d) This section does not apply to a customer or a person designated by the customer who is at least eighteen (18) years of age on June 30, 2007. This subsection expires December

31, 2010.

SECTION 3. IC 24-3-5-8, AS AMENDED BY P.L.160-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. **(a)** The commission may impose a civil penalty of not more one thousand dollars ($1,000) on a:

(1) customer who signs another person's name to a statement required under section 4(1) of this chapter; or

(2) merchant who sells cigarettes by delivery sale to a person less than ~~eighteen (18)~~ **twenty-one (21)** years of age.

The commission shall deposit amounts collected under this section into the youth tobacco education and enforcement fund established by IC 7.1-6-2-6.

(b) Subsection (a)(2) does not apply to a person who purchases cigarettes and is at least eighteen (18) years of age on June 30, 2007. This subsection expires December 31, 2010.

SECTION 4. IC 35-46-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) A person who knowingly:

(1) sells or distributes tobacco to a person less than ~~eighteen (18)~~ **twenty-one (21)** years of age; or

(2) purchases tobacco for delivery to another person who is less than ~~eighteen (18)~~ **twenty-one (21)** years of age;

commits a Class C infraction. For a sale to take place under this section, the buyer must pay the seller for the tobacco product.

(b) It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the tobacco.

(c) The following defenses are available to a person accused of selling or distributing tobacco to a person who is less than ~~eighteen (18)~~ **twenty-one (21)** years of age:

(1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph, showing that the purchaser or recipient was of legal age to make the purchase.

(2) The buyer or recipient produced a photographic identification card issued under IC 9-24-16-1, or a similar card issued under the laws of another state or the federal government, showing that the purchaser or recipient was of legal age to make the purchase.

(3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.

(d) It is a defense that the accused person sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:

(1) agriculture;

(2) processing;

(3) transporting;

(4) wholesaling; or

(5) retailing.

(e) As used in this section, "distribute" means to give tobacco to another person as a means of promoting, advertising, or marketing the tobacco to the general public.

(f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a person who sells or distributes tobacco is not liable for a violation of this section unless the person less than ~~eighteen (18)~~ **twenty-one (21)** years of age who bought or received the tobacco is issued a citation or summons under section 10.5 of this chapter.

(g) Notwithstanding ~~IC 34-28-5-4(c),~~ **IC 34-28-5-5(c),** civil penalties collected under this section must be deposited in the Richard D. Doyle youth tobacco education and enforcement fund (IC 7.1-6-2-6).

(h) This section does not apply to an individual who purchases tobacco and is at least eighteen (18) years of age on June 30, 2007. This subsection expires December 31, 2010.

SECTION 5. IC 35-46-1-10.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10.2. (a) A retail establishment that sells or distributes tobacco to a person less than ~~eighteen (18)~~ **twenty-one (21)** years of age commits a Class C infraction. For a sale to take place under this section, the buyer must pay the retail establishment for the tobacco product. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

(1) If the retail establishment at that specific business location has not been issued a citation or summons for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars ($50).

(2) If the retail establishment at that specific business location has had one (1) citation or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of one hundred dollars ($100).

(3) If the retail establishment at that specific business location has had two (2) citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of two hundred fifty dollars ($250).

(4) If the retail establishment at that specific business location has had three (3) or more citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of five hundred dollars ($500).

A retail establishment may not be issued a citation or summons for a violation of this section more than once every twenty-four (24) hours for each specific business location.

(b) It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the tobacco.

(c) The following defenses are available to a retail establishment accused of selling or distributing tobacco to a person who is less than ~~eighteen (18)~~ **twenty-one (21)** years of age:

(1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph showing that the purchaser or recipient was of legal age to make the purchase.

(2) The buyer or recipient produced a photographic identification card issued under IC 9-24-16-1 or a similar card issued under the laws of another state or the federal government showing that the purchaser or recipient was of legal age to make the purchase.

(3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.

(d) It is a defense that the accused retail establishment sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:

(1) agriculture;

(2) processing;

(3) transporting;

(4) wholesaling; or

(5) retailing.

(e) As used in this section, "distribute" means to give tobacco to another person as a means of promoting, advertising, or marketing the tobacco to the general public.

(f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a retail establishment that sells or distributes tobacco is not liable for a violation of this section unless the person less than ~~eighteen (18)~~ **twenty-one (21)** years of age who bought or

received the tobacco is issued a citation or summons under section 10.5 of this chapter.

(g) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the Richard D. Doyle youth tobacco education and enforcement fund (IC 7.1-6-2-6).

(h) A person who violates subsection (a) at least six (6) times in any six (6) month period commits habitual illegal sale of tobacco, a Class B infraction.

(i) This section does not apply to an individual who purchases or receives tobacco and is at least eighteen (18) years of age on June 30, 2007. This subsection expires December 31, 2010.

SECTION 6. IC 35-46-1-10.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10.5. (a) A person less than ~~eighteen (18)~~ **twenty-one (21)** years of age who:

(1) purchases tobacco;
(2) accepts tobacco for personal use; or
(3) possesses tobacco on his person;

commits a Class C infraction.

(b) It is a defense under subsection (a) that the accused person acted in the ordinary course of employment in a business concerning tobacco:

(1) agriculture;
(2) processing;
(3) transporting;
(4) wholesaling; or
(5) retailing.

(c) This section does not apply to a person who is at least eighteen (18) years of age on June 30, 2007. This subsection expires December 31, 2010.

SECTION 7. IC 35-46-1-11.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11.7. (a) A retail establishment that has as its primary purpose the sale of tobacco products may not allow an individual who is less than ~~eighteen (18)~~ **twenty-one (21)** years of age to enter the retail establishment.

(b) An individual who is less than ~~eighteen (18)~~ **twenty-one (21)** years of age may not enter a retail establishment described in subsection (a).

(c) A retail establishment described in subsection (a) must conspicuously post on all entrances to the retail establishment a sign in boldface type that states "NOTICE: It is unlawful for a person less than ~~18~~ **21** years old to enter this store.".

(d) A person who violates this section commits a Class C infraction. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

(1) If the person has not been cited for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars ($50).
(2) If the person has had one (1) violation in the previous ninety (90) days, a civil penalty of one hundred dollars ($100).
(3) If the person has had two (2) violations in the previous ninety (90) days, a civil penalty of two hundred fifty dollars ($250).
(4) If the person has had three (3) or more violations in the previous ninety (90) days, a civil penalty of five hundred dollars ($500).

A person may not be cited more than once every twenty-four (24) hours.

(e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the Richard D. Doyle youth tobacco education and enforcement fund established under IC 7.1-6-2-6.

(f) This section does not apply to an individual who enters a retail establishment and is at least eighteen (18) years of age on June 30, 2007. This subsection expires December 31, 2010.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1477 as printed February 14, 2007.)

THOMPSON

Upon request of Representatives Thompson and Borders, the Speaker ordered the roll of the House to be called. Roll Call 175: yeas 11, nays 84. Motion failed. The bill was ordered engrossed.

House Bill 1663

Representative Buell called down House Bill 1663 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1663–3)

Mr. Speaker: I move that House Bill 1663 be amended to read as follows:

Page 5, line 10, after "tattoo" strike "parlors".

Page 5, between lines 11 and 12, begin a new line double block indented and insert:

"**(Q) To regulate the storage and disposal of waste tires.**".

Page 5, line 37, after "establish" strike "nonprofit".

Page 5, line 37, after "corporations" insert "**and enter into partnerships and joint ventures**".

Page 6, between lines 35 and 36, begin a new line block indented and insert:

"**(33) To use levied taxes or other funds to make intergovernmental transfers to the state to fund governmental health care programs, including, but not limited to, Medicaid and Medicaid supplemental programs.**".

(Reference is to 1663 as printed February 14, 2007.)

BUELL

Motion prevailed.

HOUSE MOTION
(Amendment 1663–2)

Mr. Speaker: I move that House Bill 1663 be amended to read as follows:

Page 3, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 3. IC 16-18-2-14 IS AMENDED TO READ AS FOLLOWS: Sec. 14. (a) "Ambulatory outpatient surgical center", for purposes of IC 16-21**, IC 16-29-1.5,** and IC 16-38-2, means a public or private institution that meets the following conditions:

(1) Is established, equipped, and operated primarily for the purpose of performing surgical procedures and services.
(2) Is operated under the supervision of at least one (1) licensed physician or under the supervision of the governing board of the hospital if the center is affiliated with a hospital.
(3) Permits a surgical procedure to be performed only by a physician, dentist, or podiatrist who meets the following conditions:
  (A) Is qualified by education and training to perform the surgical procedure.
  (B) Is legally authorized to perform the procedure.
  (C) Is privileged to perform surgical procedures in at least one (1) hospital within the county or an Indiana county adjacent to the county in which the ambulatory outpatient surgical center is located.
  (D) Is admitted to the open staff of the ambulatory outpatient surgical center.
(4) Requires that a licensed physician with specialized training or experience in the administration of an anesthetic supervise the administration of the anesthetic to a patient and remain present in the facility during the surgical procedure, except when only a local infiltration anesthetic is administered.

(5) Provides at least one (1) operating room and, if anesthetics other than local infiltration anesthetics are administered, at least one (1) postanesthesia recovery room.
(6) Is equipped to perform diagnostic x-ray and laboratory examinations required in connection with any surgery performed.
(7) Does not provide accommodations for patient stays of longer than twenty-four (24) hours.
(8) Provides full-time services of registered and licensed nurses for the professional care of the patients in the postanesthesia recovery room.
(9) Has available the necessary equipment and trained personnel to handle foreseeable emergencies such as a defibrillator for cardiac arrest, a tracheotomy set for airway obstructions, and a blood bank or other blood supply.
(10) Maintains a written agreement with at least one (1) hospital for immediate acceptance of patients who develop complications or require postoperative confinement.
(11) Provides for the periodic review of the center and the center's operations by a committee of at least three (3) licensed physicians having no financial connections with the center.
(12) Maintains adequate medical records for each patient.
(13) Meets all additional minimum requirements as established by the state department for building and equipment requirements.
(14) Meets the rules and other requirements established by the state department for the health, safety, and welfare of the patients.

(b) The term does not include a birthing center.

SECTION 4. IC 16-18-2-67 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 67. "Comprehensive care bed", for purposes of:

(1) IC 16-29-1.7, has the meaning set forth in IC 16-29-1.7-1; and

(2) IC 16-29-2, has the meaning set forth in IC 16-29-2-1.

SECTION 5. IC 16-18-2-179 IS AMENDED TO READ AS FOLLOWS: Sec. 179. (a) "Hospital", except as provided in subsections (b) through (f), means a hospital that is licensed under IC 16-21-2.

(b) "Hospital", for purposes of IC 16-21, means an institution, a place, a building, or an agency that holds out to the general public that it is operated for hospital purposes and that it provides care, accommodations, facilities, and equipment, in connection with the services of a physician, to individuals who may need medical or surgical services. The term does not include the following:

(1) Freestanding health facilities.
(2) Hospitals or institutions specifically intended to diagnose, care, and treat the following:
(A) Mentally ill individuals (as defined in IC 12-7-2-131).
(B) Individuals with developmental disabilities (as defined in IC 12-7-2-61).
(3) Offices of physicians where patients are not regularly kept as bed patients.
(4) Convalescent homes, boarding homes, or homes for the aged.

(c) "Hospital", for purposes of IC 16-22-8, has the meaning set forth in IC 16-22-8-5.

(d) "Hospital" or "tuberculosis hospital", for purposes of IC 16-24, means an institution or a facility for the treatment of individuals with tuberculosis.

(e) "Hospital" for purposes of IC 16-29-1.5, means an institution, a place, a building, or an agency that holds out to the general public that it is operated for hospital purposes and that it provides care, accommodations, facilities, and equipment, in connection with the services of a physician, to individuals who may need medical or surgical services. The term does not include the following:

(1) A freestanding health facility.
(2) A hospital or institution specifically intended to diagnose, care, and treat individuals with developmental disabilities (as defines in IC 12-7-2-61).
(3) An office of physicians where patients are not regularly kept as bed patients.
(4) A convalescent home, boarding home, or home for the aged.

~~(c)~~ **(f)** "Hospital", for purposes of IC 16-34, means a hospital (as defined in subsection (b)) that:

(1) is required to be licensed under IC 16-21-2; or
(2) is operated by an agency of the United States.

~~(f)~~ **(g)** "Hospital", for purposes of IC 16-41-12, has the meaning set forth in IC 16-41-12-6.".

Page 8, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 7. IC 16-29-1.3 IS ADDED AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 1.3. Certificate of Need Committee

Sec. 1. The certificate of need committee is established.

Sec. 2. (a) The certificate of need committee consists of the following eleven (11) members:

(1) One (1) physician licensed under IC 25-22.5.
(2) One (1) individual who is not associated with a hospital, an ambulatory surgical center, or a health facility except as a consumer.
(3) One (1) individual representing the business sector.
(4) One (1) individual engaged in hospital administration.
(5) One (1) individual engaged in the administration of a rural hospital.
(6) One (1) individual engaged in the administration of a health facility.
(7) One (1) individual representing the insurance industry.
(8) One (1) individual representing the labor sector.
(9) One (1) individual representing minority health populations.
(10) The commissioner or the commissioner's designee.
(11) The director of the office of Medicaid policy and planning or the director's designee.

(b) The governor shall appoint the members set forth in subsection (a)(1) through (a)(9) for four (4) year terms. A member described in this subsection may be reappointed to the committee for one (1) additional four (4) year term.

(c) The commissioner or the commissioner's designee is the chairperson of the committee.

Sec. 3. The certificate of need committee shall do the following:

(1) Review an application for certificate of need applied for under the following statutes:
(A) IC 16-29-1.5.
(B) IC 16-29-1.7.
(2) Prepare the annual report required under:
(A) IC 16-29-1.5-7; and
(B) IC 16-29-1.7-10.
(3) Adopt criteria to be considered by the committee in reviewing an application for certificate of need under IC 16-29-1.5 and IC 16-29-1.7.
(4) Make recommendations to the state department concerning whether an application for certificate of need reviewed by the committee should be granted by the state department.

Sec. 4. The state department shall staff the certificate of need committee. The expenses of the committee shall be paid by the state department.

Sec. 5. (a) Each member of the certificate of need

committee who is a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the certificate of need committee who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 6. The affirmative votes of a majority of the members appointed to the certificate of need committee are required for the committee to take action on any measure.

SECTION 8. IC 16-29-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 1.5. Hospitals and Ambulatory Outpatient Surgical Centers

Sec. 1. (a) The certificate of need committee established by IC 16-29-1.3-1 shall review the following applications for a certificate of need:

(1) Applications for a certificate of need to construct or add a hospital required to be licensed under IC 16-21-2.

(2) Applications to construct or add an ambulatory outpatient surgical center required to be licensed under IC 16-21-2.

(b) Hospital beds converted under IC 16-29-3 to:

(1) skilled care comprehensive long term care beds; or

(2) intermediate care comprehensive long term care beds;

are exempt from review under this chapter.

Sec. 2. (a) The certificate of need committee shall make a finding on an application for a certificate of need based on information prepared by the state department in accordance with IC 16-30 and any other relevant information as to the need for an entity described in section 1 of this chapter as requested in the application.

(b) The certificate of need committee shall recommend and the state department shall approve a certificate of need for a hospital or an ambulatory outpatient surgical center only after finding the following:

(1) The addition of a hospital or an outpatient surgical center in the county:

(A) is necessary;

(B) will meet an unmet need in the proposed area to be served; and

(C) is the most efficient and effective method of meeting that unmet need.

(2) The applicant for the certificate of need has illustrated or documented the applicant's experience or capacity to provide quality, effective, and efficient care. An applicant must include a description of any past or current adverse licensure action against any facility owned, operated, or managed by the applicant.

Sec. 3. (a) An entity described in section 1 of this chapter may not be constructed or added without the review and approval of an application for a certificate of need required under this chapter.

(b) The review and approval of an application for a certificate of need required under this chapter is a condition to the licensure of the entity.

Sec. 4. A certificate of need for a project to construct or add an entity described in section 1 of this chapter that receives final approval of the state department under this chapter becomes void twelve (12) months after the determination becomes final unless:

(1) construction plans for the project are approved by the state department and the office of the state fire marshal;

(2) the applicant has completed construction of the project's foundation in conformity with the approved plans as certified by an independent architect licensed under IC 25-4 or an independent professional engineer licensed under IC 25-31; and

(3) construction work on the project is continuous and in conformity with the approved plans.

Sec. 5. (a) Unless a certificate of need expires or is voided, the certificate of need once issued is the personal property of the owner and is transferable or alienable. However, the certificate of need may not be used outside the county with respect to which the certificate of need was issued.

(b) A person that is granted a certificate of need after the review and approval required under this chapter is the owner of the certificate of need until the person transfers or alienates the ownership interest in the certificate.

Sec. 6. (a) The state department shall adopt rules under IC 4-22-2 to implement this chapter and to establish a reasonable fee for the filing and review of an application under this chapter. A fee established under this section must be sufficient to cover the cost of administering the program. A rule adopted under this chapter may not be waived.

(b) Fees imposed in connection with the review of an application for a certificate of need under this chapter are payable to the state department for use in administration of the certificate of need program under this chapter.

(c) The state department shall consider the size of the entity proposed in an application and the projected revenues for the proposed entity in determining the entity's application fee.

Sec. 7. The certificate of need committee shall submit a report not later than July 1 of each year beginning July 1, 2008, to the health finance commission established by IC 2-5-23-3. The report must include the following:

(1) The number of applications for certificate of need under this chapter received during the year by the committee.

(2) The number of certificate of need applications under this chapter granted by the committee and the reason for granting each certificate of need.

(3) The number of times the committee met to review applications under this chapter for certificate of need.

(4) Any other information the committee considers relevant.

(5) Any information requested by the health finance commission.

Sec. 8. A decision by the certificate of need committee or state department under this chapter is subject to review under IC 4-21.5.

SECTION 9. IC 16-29-1.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 1.7. Health Facilities

Sec. 1. (a) As used in this chapter, "comprehensive care bed" means a bed in a comprehensive care facility that:

(1) is licensed or is to be licensed under IC 16-28-2; or

(2) functions as a bed licensed under IC 16-28-2.

(b) The term does not include a comprehensive care bed that will be used solely to provide specialized services described in IC 16-29-2. The state department shall review applications for a certificate of need for a comprehensive care bed used solely to provide specialized services under IC 16-29-2.

Sec. 2. (a) Except as provided in IC 16-29-2, the certificate of need committee established by IC 16-29-1.3-1 shall review the following applications for a certificate of need:

(1) Applications for a certificate of need for comprehensive care beds that are to be certified for participation in a state or federal reimbursement program, including programs under Title XVIII or Title XIX of the federal Social Security Act (49 U.S.C. 1395 et seq. or 42 U.S.C. 1396 et seq.).

(2) Applications for a certificate of need to construct or add comprehensive care beds or to convert beds to comprehensive care beds.

(b) The following are exempt from review under this chapter:

(1) The conversion under IC 16-29-4 of existing health facility beds to ICF/MR beds.

(2) The construction under IC 16-29-4 of new ICF/MR facilities after June 30, 1987.

Sec. 3. Except as provided by IC 16-29-2, the certificate of need committee shall make a finding based on information prepared by the state department in accordance with IC 16-30 and any other relevant information as to the need for an entity described in section 2 of this chapter as requested in the application for a certificate of need. The committee shall recommend and the state department shall approve a certificate of need for additional comprehensive care beds or the certification of comprehensive care beds only after finding the following:

(1) The certification or addition of comprehensive care beds in the county:

(A) is necessary;

(B) will meet an unmet need in the proposed area to be served; and

(C) is the most efficient and effective method of meeting that unmet need.

(2) The applicant for a certificate of need has illustrated or documented the applicant's experience or capacity to provide quality, effective, and efficient care that includes a description of any past or current adverse licensure action against any facility owned, operated, or managed by the applicant.

Sec. 4. The certificate of need committee shall presume that additional comprehensive care beds are not needed in the county of application if:

(1) the existing utilization rate for all certified comprehensive care beds is less than ninety percent (90%); or

(2) the addition of the certified beds proposed in the application for a certificate of need will reduce the existing utilization rate for all certified comprehensive care beds below ninety percent (90%).

Sec. 5. (a) Except as provided in IC 16-29-2, IC 16-29-3, and IC 16-29-4:

(1) a comprehensive care bed may not be constructed or added; and

(2) a bed may not be converted to a comprehensive care bed;

without the review and approval of a certificate of need required under this chapter.

(b) Comprehensive care beds that are not certified for participation in a state or federal reimbursement program, including programs under Title XVIII or Title XIX of the federal Social Security Act (42 U.S.C. 1395 et seq. or 42 U.S.C. 1396 et seq.) may not be certified without the review and approval required under this chapter.

(c) The review and approval of a certificate of need required in this chapter is a condition to the licensure of the facility.

Sec. 6. A certificate of need for a project to construct, add, or convert beds that receives final approval of the state department under this chapter or IC 16-29-1 (before its repeal) becomes void twelve (12) months after the determination becomes final unless:

(1) construction plans for the project are approved by the state department and the office of the state fire marshal;

(2) the applicant has completed construction of the project's foundation in conformity with the approved plans as certified by an independent architect licensed under IC 25-4 or an independent professional engineer licensed under IC 25-31; and

(3) construction work on the project is continuous and in conformity with the approved plans.

Sec. 7. (a) Unless a certificate of need expires or is voided, the certificate of need once issued is the personal property of the owner and is transferable or alienable. However, the certificate of need may not be used outside the county with respect to which the certificate of need was issued.

(b) A person that is granted a certificate of need after the review and approval required under this chapter is the owner of the certificate of need until the person transfers or alienates the ownership interest in the certificate.

Sec. 8. (a) The state department shall adopt rules under IC 4-22-2 to implement this chapter and to establish a reasonable fee for the filing and review of an application under this chapter. A fee established under this section must be sufficient to cover the cost of administering the program. A rule adopted under this chapter may not be waived.

(b) Fees imposed in connection with the review of an application for a certificate of need under this chapter are payable to the state department for use in administration of the certificate of need program under this chapter.

(c) The state department shall decide whether to consider the size of the entity proposed within an application and the projected revenues for the proposed entity in determining the entity's application fee.

Sec. 9. The certificate of need committee shall consider the following when determining whether to recommend the issuance of a certificate of need:

(1) Information, if available, regarding whether the applicant has provided quality care services.

(2) The costs the applicant has incurred to provide services.

Sec. 10. The certificate of need committee shall submit a report not later than July 1 of each year beginning July 1, 2008, to the health finance commission established by IC 2-5-23-3. The report must include the following:

(1) The number of applications for certificate of need under this chapter received during the year by the committee.

(2) The number of certificate of need applications under this chapter granted by the committee and the reason for granting each certificate of need.

(3) The number of times the committee met to review applications under this chapter for certificate of need.

(4) Any other information the committee considers relevant.

(5) Any information requested by the health finance commission.

Sec. 11. A decision by the certificate of need committee or state department under this chapter is subject to review under IC 4-21.5.

SECTION 10. IC 16-29-3-1, AS AMENDED BY P.L.96-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS: Sec. 1. **Notwithstanding IC 16-29-1.7,** ~~A hospital~~ a hospital licensed under IC 16-21-2 may convert, **without having to obtain a certificate of need under IC 16-29-1.5**:

(1) not more than thirty (30) acute care beds to skilled care comprehensive long term care beds; and

(2) not more than an additional twenty (20) acute care beds to either intermediate care comprehensive long term care beds or skilled care comprehensive long term care beds;

that are to be certified for participation in a state or federal

reimbursement program, including a program under Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) or the state Medicaid program, if those beds will function essentially as beds licensed under IC 16-28.

SECTION 11. IC 16-29-4-1 IS AMENDED TO READ AS FOLLOWS: **(a)** Sec. 1. This chapter applies to the following:

(1) The conversion of existing health facility beds to ICF/MR beds.

(2) The construction of new ICF/MR facilities after June 30, 1987.

(b) IC 16-29-1.7 does not apply to the:

(1) conversion of existing health facility beds to ICF/MR beds;

(2) construction of new ICF/MR facilities after June 30, 1987;

under this chapter.

SECTION 12. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 16-29-1.7, as added by this act, a health facility (as defined in IC 16-18-2-167) is not required to obtain a certificate of need to construct comprehensive care beds (as defined in IC 16-29-1.7-1, as added by this act) if:**

(1) construction plans for the project are approved by the state department of health and the office of the state fire marshal not later than May 15, 2007;

(2) the applicant has completed construction of the project's foundation not later than July 1, 2007, in conformity with the approved plans as certified by an independent architect licensed under IC 25-4 or an independent professional engineer licensed under IC 25-31; and

(3) construction work on the project is continuous and in conformity with the approved plans.

(b) This SECTION expires July 1, 2008.

SECTION 13. [EFFECTIVE JULY 1, 2007] **(a) Notwithstanding IC 16-29-1.3-2, as added by this act, the initial members of the certificate of need committee shall be appointed as follows:**

(1) The members appointed under IC 16-29-1.3-2(a)(1) and IC 16-29-1.3-2(a)(2), both as added by this act, shall each be appointed to a one (1) year term.

(2) The members appointed under IC 16-29-1.3-2(a)(3) and IC 16-29-1.3-2(a)(4), both as added by this act, shall each be appointed to a two (2) year term.

(3) The members appointed under IC 16-29-1.3-2(a)(5) through IC 16-29-1.3-2(a)(7), all as added by this act, shall each be appointed to a three (3) year term.

(4) The members appointed under IC 16-29-1.3-2(a)(8) and IC 16-29-1.3-2(a)(9), both as added by this act, shall each be appointed to a four (4) year term.

(b) This SECTION expires December 31, 2011.

SECTION 14. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1663 as printed February 14, 2007.)

FOLEY

Representative Pelath rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into House Bill 1663 a bill pending before the House. The Speaker ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

House Bill 1664

Representative GiaQuinta called down House Bill 1664 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1664–2)

Mr. Speaker: I move that House Bill 1664 be amended to read as follows:

Page 6, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 4. IC 6-3.1-1-3, AS ADDED BY P.L.199-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: Sec. 3. A taxpayer (as defined in the following laws), pass through entity (as defined in the following laws), or shareholder, partner, or member of a pass through entity may not be granted more than one (1) tax credit under the following laws for the same project:

(1) IC 6-3.1-10 (enterprise zone investment cost credit).

(2) IC 6-3.1-11 (industrial recovery tax credit).

(3) IC 6-3.1-11.5 (military base recovery tax credit).

(4) IC 6-3.1-11.6 (military base investment cost credit).

(5) IC 6-3.1-13.5 (capital investment tax credit).

(6) IC 6-3.1-19 (community revitalization enhancement district tax credit).

(7) IC 6-3.1-24 (venture capital investment tax credit).

(8) IC 6-3.1-26 (Hoosier business investment tax credit).

(9) IC 6-3.1-32 (Hoosier alternative fuel vehicle manufacturer tax credit).

If a taxpayer, pass through entity, or shareholder, partner, or member of a pass through entity has been granted more than one (1) tax credit for the same project, the taxpayer, pass through entity, or shareholder, partner, or member of a pass through entity must elect to apply only one (1) of the tax credits in the manner and form prescribed by the department.".

Page 11, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 6. IC 6-3.1-32 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]:

Chapter 32. Hoosier Alternative Fuel Vehicle Manufacturer Tax Credit

Sec. 1. As used in this chapter, "alternative fuel" means:

(1) methanol, denatured ethanol, and other alcohols;

(2) mixtures containing eighty-five percent (85%) or more by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuel;

(3) natural gas;

(4) liquefied petroleum gas;

(5) hydrogen;

(6) coal-derived liquid fuels;

(7) non-alcohol fuels derived from biological material;

(8) P-Series;

(9) electricity; or

(10) electric battery and diesel.

Sec. 2. As used in this chapter, "alternative fuel vehicle" means any vehicle designed to operate on at least one (1) alternative fuel.

Sec. 3. As used in this chapter, "the corporation" means the Indiana economic development corporation established by IC 5-28-3-1.

Sec. 4. As used in this chapter, "director" has the meaning set forth in IC 6-3.1-13-3.

Sec. 5. As used in this chapter, "highly compensated employee" has the meaning set forth in Section 414(q) of the Internal Revenue Code.

Sec. 6. As used in this chapter, "new employee" has the meaning set forth in IC 6-3.1-13-6.

Sec. 7. As used in this chapter, "qualified investment" means the amount of a taxpayer's expenditures in Indiana that are reasonable and necessary for the manufacture or assembly of alternative fuel vehicles, including:

(1) the purchase of new telecommunications, production, manufacturing, fabrication, assembly, finishing, distribution, transportation, or logistical distribution equipment, jigs, dies, or fixtures;

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

(3) costs associated with the modernization of existing

telecommunications, production, manufacturing, fabrication, assembly, finishing, distribution, transportation, or logistical distribution facilities;
(4) onsite infrastructure improvements;
(5) the construction of new telecommunications, production, manufacturing, fabrication, assembly, finishing, distribution, transportation, or logistical distribution facilities;
(6) costs associated with retooling existing machinery and equipment;
(7) costs associated with the construction of special purpose buildings, pits, and foundations; and
(8) costs associated with the purchase of machinery, equipment, or special purpose buildings used to manufacture or assemble alternative fuel vehicles;
that are certified by the corporation under this chapter as being eligible for the credit under this chapter.

Sec. 8. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:
(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
(2) IC 6-5.5 (the financial institutions tax); and
(3) IC 27-1-18-2 (the insurance premiums tax);
as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 9. As used in this chapter, "taxpayer" means an individual, a corporation, a partnership, or other entity that has state tax liability.

Sec. 10. The corporation may make credit awards under this chapter to:
(1) foster job creation and higher wages;
(2) reduce dependency upon energy sources imported into the United States; and
(3) reduce air pollution as the result of the manufacture or assembly of alternative fuel vehicles in Indiana.

Sec. 11. A taxpayer that:
(1) is awarded a tax credit under this chapter by the corporation; and
(2) complies with the conditions set forth in this chapter and the agreement entered into by the corporation and the taxpayer under this chapter;
is entitled to a credit against the taxpayer's state tax liability in a taxable year.

Sec. 12. The total amount of a tax credit claimed for a taxable year under this chapter is a percentage determined by the corporation, not to exceed twenty-five percent (25%) of the amount of a qualified investment made by the taxpayer in Indiana during that taxable year. The taxpayer may carry forward any unused credit.

Sec. 13. (a) A taxpayer may carry forward an unused credit for the number of years determined by the corporation, not to exceed nine (9) consecutive taxable years, beginning with the taxable year after the taxable year in which the taxpayer makes the qualified investment.

(b) The amount that a taxpayer may carry forward to a particular taxable year under this section equals the unused part of a credit allowed under this chapter.

(c) A taxpayer may:
(1) claim a tax credit under this chapter for a qualified investment; and
(2) carry forward a remainder for one (1) or more different qualified investments;
in the same taxable year.

(d) The total amount of each tax credit claimed under this chapter may not exceed twenty-five percent (25%) of the qualified investment for which the tax credit is claimed.

Sec. 14. A person that proposes a project to manufacture or assemble alternative fuel vehicles that would create new jobs, increase wage levels, or involve substantial capital investment in Indiana may apply to the corporation before the taxpayer makes the qualified investment to enter into an agreement for a tax credit under this chapter. The corporation shall prescribe the form of the application.

Sec. 15. After receipt of an application, the corporation may enter into an agreement with the applicant for a credit under this chapter if the corporation determines that all the following conditions exist:
(1) The applicant's project will raise the total earnings of employees of the applicant in Indiana.
(2) The applicant's project is economically sound and will benefit the people of Indiana by increasing opportunities for employment and strengthening the economy of Indiana.
(3) The manufacture or assembly of alternative fuel vehicles by the applicant will reduce air pollution.
(4) The manufacture or assembly of alternative fuel vehicles by the applicant will reduce dependence by the United States on foreign energy sources.
(5) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project.
(6) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.
(7) The credit is not prohibited by section 16 of this chapter.
(8) The average wage that will be paid by the taxpayer to its employees (excluding highly compensated employees) at the location after the credit is given will be at least equal to one hundred fifty percent (150%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent.

Sec. 16. A person is not entitled to claim the credit provided by this chapter for any jobs that the person relocates from one (1) site in Indiana to another site in Indiana. Determinations under this section shall be made by the corporation.

Sec. 17. The corporation shall certify the amount of the qualified investment that is eligible for a credit under this chapter. In determining the credit amount that should be awarded, the corporation shall grant a credit only for the amount of the qualified investment that is directly related to expanding:
(1) the workforce in Indiana; or
(2) the capital investment in Indiana.

Sec. 18. The corporation shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all the following:
(1) A detailed description of the project that is the subject of the agreement.
(2) The first taxable year for which the credit may be claimed.
(3) The amount of the taxpayer's state tax liability for each tax in the taxable year of the taxpayer that immediately preceded the first taxable year in which the credit may be claimed.
(4) The maximum tax credit amount that will be allowed for each taxable year.
(5) A requirement that the taxpayer shall maintain operations at the project location for at least ten (10) years during the term that the tax credit is available.
(6) A specific method for determining the number of new employees employed during a taxable year who are performing jobs not previously performed by an employee.
(7) A requirement that the taxpayer shall annually report to the corporation the number of new employees who are performing jobs not previously performed by an employee, the average wage of the new employees, the average wage of all employees at the location where

the qualified investment is made, and any other information the director needs to perform the director's duties under this chapter.

(8) A requirement that the director is authorized to verify with the appropriate state agencies the amounts reported under subdivision (7), and that after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.

(9) A requirement that the taxpayer shall pay an average wage to all its employees other than highly compensated employees in each taxable year that a tax credit is available that equals at least one hundred fifty percent (150%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent.

(10) A requirement that the taxpayer will keep the qualified investment property that is the basis for the tax credit in Indiana for at least the lesser of its useful life for federal income tax purposes or ten (10) years.

(11) A requirement that the taxpayer will maintain at the location where the qualified investment is made during the term of the tax credit a total payroll that is at least equal to the payroll level that existed before the qualified investment was made.

(12) A requirement that the taxpayer shall provide written notification to the director and the corporation not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.

(13) Any other performance conditions that the corporation determines are appropriate.

Sec. 19. A taxpayer claiming a credit under this chapter shall submit to the department of state revenue a copy of the director's certificate of verification under this chapter for the taxable year. However, failure to submit a copy of the certificate does not invalidate a claim for a credit.

Sec. 20. If the director determines that a taxpayer who has received a credit under this chapter is not complying with the requirements of the tax credit agreement or all the provisions of this chapter, the director shall, after giving the taxpayer an opportunity to explain the noncompliance, notify the Indiana economic development corporation and the department of state revenue of the noncompliance and request an assessment. The department of state revenue, with the assistance of the director, shall state the amount of the assessment, which may not exceed the sum of any previously allowed credits under this chapter. After receiving the notice, the department of state revenue shall make an assessment against the taxpayer under IC 6-8.1.

Sec. 21. On or before March 31 each year, the director shall submit a report to the corporation on the tax credit program under this chapter. The report must include information on the number of agreements that were entered into under this chapter during the preceding calendar year, a description of the project that is the subject of each agreement, an update on the status of projects under agreements entered into before the preceding calendar year, and the sum of the credits awarded under this chapter. A copy of the report shall be transmitted in an electronic format under IC 5-14-6 to the executive director of the legislative services agency for distribution to the members of the general assembly.

Sec. 22. On a biennial basis, the corporation shall provide for an evaluation of the tax credit program. The evaluation must include an assessment of the effectiveness of the program in creating new jobs and increasing wages in Indiana and of the revenue impact of the program and may include a review of the practices and experiences of other states with similar programs. The director shall submit a report on the evaluation to the governor, the president pro tempore of the senate, and the speaker of the house of representatives after June 30 and before November 1 in each odd-numbered year. The report provided to the president pro tempore of the senate and the speaker of the house of representatives must be in an electronic format under IC 5-14-6.

Sec. 23. (a) This chapter applies to taxable years beginning after December 31, 2006.

(b) Notwithstanding the other provisions of this chapter, the corporation may not approve a credit for a qualified investment made after December 31, 2012. However, this section may not be construed to prevent a taxpayer from carrying an unused tax credit attributable to a qualified investment made before January 1, 2012, forward to a taxable year beginning after December 31, 2011, in the manner provided by section 13 of this chapter.".

Page 11, after line 12, begin a new paragraph and insert:

"SECTION 8. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1664 as printed February 16, 2007.)

KUZMAN

After discussion, Representative Kuzman withdrew the motion.

There being no further amendments, the bill was ordered engrossed.

House Bill 1717

Representative Bardon called down House Bill 1717 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1804

Representative Pierce called down House Bill 1804 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1804–4)

Mr. Speaker: I move that House Bill 1804 be amended to read as follows:

Page 2, line 23, strike "member of the".

Page 2, line 23, strike "board" and insert "**officer**".

Page 7, line 1, strike "member of the".

Page 7, line 1, strike "board" and insert "**officer**".

(Reference is to HB 1804 as printed February 16, 2007.)

RICHARDSON

Motion prevailed.

HOUSE MOTION
(Amendment 1804–3)

Mr. Speaker: I move that House Bill 1804 be amended to read as follows:

Page 2, delete lines 17 through 42.

Page 3, delete lines 1 through 12.

Page 6, delete lines 37 through 42.

Delete page 7.

Page 8, delete lines 1 through 28.

Page 13, delete lines 25 through 42.

Delete page 14.

Page 15, delete lines 1 through 4.

Renumber all SECTIONS consecutively.

(Reference is to HB 1804 as printed February 16, 2007.)

LEHE

Motion failed. The bill was ordered engrossed.

House Bill 1197

Representative Pflum called down House Bill 1197 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1197–3)

Mr. Speaker: I move that House Bill 1197 be amended to read as follows:

Page 1, line 8, delete "A" and insert "**(a) Except as provided in subsection (b), and subject to subsection (d), a**".

Page 1, line 10, delete "less than one (1) mile from the boundary of" and insert "**either:**

(1) less than one-half (½) mile from the boundary of a municipality; or

(2) less than one thousand two hundred (1,200) feet from either of the following:

(A) The boundary of a parcel of land on which any of the following are located:

(i) A child care center licensed under IC 12-17.2-4.

(ii) A public school.

(iii) A health facility licensed under IC 16-28.

(B) Waters.

(b) Subsection (a) does not apply to construction that:

(1) is:

(A) an expansion of an existing confined feeding operation or CAFO; or

(B) construction of a new confined feeding operation or CAFO proposed to be located within one thousand two hundred (1,200) feet of a boundary referred to in subsection (a)(2) of an entity described in subsection (a)(2)(A) that located within one thousand two hundred (1,200) feet of a confined feeding operation or CAFO that:

(i) existed; or

(ii) was under construction;

on March 1, 2007; and

(2) is proposed by a person that has not committed in the five (5) years that immediately precede the date referred to in subsection (c) a violation of:

(A) the environmental management laws; or

(B) a rule adopted by the board;

as determined by the department.

(c) The date referred to in subsection (b)(2) is the applicable date as follows:

(1) The date the department of environmental management approves the initial construction or expansion construction of a confined feeding operation or CAFO under section 1 of this chapter.

(2) With respect to a CAFO to which subdivision (1) does not apply, either of the following:

(A) The date the department of environmental management approves a NPDES permit for the initial construction or expansion construction of the CAFO under 327 IAC 5.

(B) The date a notice of intent is filed for general NPDES permit coverage for the initial construction or expansion construction of the CAFO under 327 IAC 15.

(d) A person that proposes construction as described in subsection (a) may appeal to:

(1) the local zoning authority that has jurisdiction where the facility is to be located; or

(2) the county executive if the facility is to be located in a county that does not zone under IC 36-7-4;

for an exemption from the distance restrictions under subsection (a). The person must specify in the appeal petition the reasons that justify the exemption.

(e) A local zoning authority or county executive that receives an appeal petition under subsection (d) shall do the following:

(1) Publish notice under IC 5-3-1 of a public hearing on the appeal. The public hearing must be held not later than forty-five (45) days after the date of filing of the appeal petition under subsection (d).

(2) Hold the public hearing, taking testimony from the appellant and the public on the appeal.

(3) Conduct any inquiry or investigation that the local zoning authority or county executive considers necessary before making a determination.

(f) A local zoning authority or county executive may grant an appeal under subsection (d) for exemption from the distance restrictions under subsection (a) only if the local zoning authority or county executive determines that granting the appeal is consistent with the public health, safety, and welfare.

(g) After a public hearing held under subsection (e), the local zoning authority or county executive shall:

(1) make a written determination on the appeal petition; and

(2) give notice of the determination to:

(A) the appellant; and

(B) the department;

not later than thirty (30) days after the date of the public hearing, unless the local zoning authority or county executive and the appellant agree to a longer time.".

Page 1, delete lines 11 through 16.

Page 2, line 11, delete "if the limitation in section" and insert "**if:**

(A) the limitation in section 1.5(a) of this chapter applies to; or

(B) an appeal is pending under section 1.5(d) of this chapter with respect to;

the facility that is the subject of the application.".

Page 2, delete lines 12 through 13.

Page 3, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 4. IC 13-18-10-2.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 2.4. For purposes of this chapter, the only permissible methods of application of manure generated from a confined feeding operation to land that meets the distance restrictions described in section 1.5(a) of this chapter are as follows:**

(1) Incorporation (as defined in 327 IAC 16-2-19 as in effect on January 1, 2007).

(2) Injection (as defined in 327 IAC 16-2-20 as in effect on January 1, 2007).".

Page 4, between lines 26 and 27, begin a new paragraph and insert:

"SECTION 10. IC 13-18-10-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 11. If:**

(1) a court action is brought against an owner or operator of a confined feeding operation, including a CAFO, by a person other than a political subdivision or a state agency; and

(2) the action includes a complaint against any aspect of the construction or operation of the confined feeding operation or CAFO;

the party prevailing in the action is entitled to recover the costs of the action, including reasonable attorney's fees as determined by the court.

SECTION 11. IC 13-18-10-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 12. The department shall revoke an approval or permit under which a person is allowed to construct or operate a confined feeding operation, including a CAFO, at the time of the third occurrence of either of the following:**

(1) The person is convicted under IC 13-30-6.

(2) A civil penalty is imposed on the person under IC 13-30-4, except for a civil penalty for a minor violation as described in IC 13-30-4-3(a).".

Renumber all SECTIONS consecutively.
(Reference is to HB 1197 as printed February 16, 2007.)
STUTZMAN

Upon request of Representatives Stutzman and Ruppel, the Speaker ordered the roll of the House to be called. Roll Call 176: yeas 10, nays 85. Motion failed.

HOUSE MOTION
(Amendment 1197–1)

Mr. Speaker: I move that House Bill 1197 be amended to read as follows:

Page 5, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 12. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "facility" means either of the following:**

(1) A new concentrated animal feeding operation as defined in IC 13-11-2-38.3.

(2) A new confined feeding operation as defined in IC 13-11-2-40.

(b) As used in this SECTION, "facility approval date" refers to either of the following:

(1) The date the department of environmental management approves a facility under IC 13-18-10-1.

(2) With respect to a facility to which subdivision (1) does not apply, either of the following:

(A) The date the department of environmental management approves a NPDES permit for the facility under 327 IAC 5.

(B) The date a notice of intent is filed for general NPDES permit coverage for the facility under 327 IAC 15.

(c) As used in this SECTION, "facility ordinance" refers to an ordinance that regulates any of the following with respect to a facility:

(1) Location.

(2) Construction.

(3) Operation.

(d) As used in this SECTION, "legislative body" has the meaning set forth in IC 36-1-2-9.

(e) A facility ordinance may retroactively regulate a facility only if:

(1) the legislative body of the county adopts the facility ordinance:

(A) after the effective date of this SECTION;

(B) before January 1, 2008; and

(C) not later than ninety (90) days after the facility approval date; and

(2) on the date the legislative body adopts the facility ordinance under subdivision (1) the county does not have a facility ordinance is in effect.

(f) This SECTION expires January 1, 2008.".

Renumber all SECTIONS consecutively.
(Reference is to HB 1197 as printed February 16, 2007.)
LEHE

Motion prevailed.

HOUSE MOTION
(Amendment 1197–5)

Mr. Speaker: I move that House Bill 1197 be amended to read as follows:

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 7.

Page 5, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 9. [EFFECTIVE UPON PASSAGE] **(a) Before July 1, 2007, the Indiana land resources council shall distribute to each county auditor the model zoning ordinances developed by the council in 2007.**

(b) This SECTION expires January 1, 2008.".

Renumber all SECTIONS consecutively.
(Reference is to HB 1197 as printed February 16, 2007.)
FRIEND

Upon request of Representatives Friend and Ruppel, the Speaker ordered the roll of the House to be called. Roll Call 177: yeas 41, nays 55. Motion failed.

HOUSE MOTION
(Amendment 1197–4)

Mr. Speaker: I move that House Bill 1197 be amended to read as follows:

Page 1, line 8, delete "A" and insert "**(a) Except as provided in subsection (b), and subject to subsection (c), a**".

Page 1, delete line 13.

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

Page 1, line 15, delete "(C)" and insert "**(B)**".

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

"**(b) Subsection (a) does not apply to construction that:**

(1) is:

(A) an expansion of an existing confined feeding operation or CAFO; or

(B) construction of a new confined feeding operation or CAFO proposed to be located within one (1) mile of a boundary referred to in subsection (a) of an entity described in subsection (a)(1) or (a)(2) that located within one (1) mile of a confined feeding operation or CAFO that:

(i) existed; or

(ii) was under construction;

on March 1, 2007; and

(2) is proposed by a person that has not committed a violation of:

(A) environmental management laws; or

(B) a rule adopted by the board;

as determined by the department.

(c) A person that proposes construction as described in subsection (a) may appeal to:

(1) the local zoning authority that has jurisdiction where the facility is to be located; or

(2) the county executive if the facility is to be located in a county that does not zone under IC 36-7-4;

for an exemption from the one (1) mile limitation under subsection (a). The person must specify in the appeal petition the reasons that justify the exemption.

(d) A local zoning authority or county executive that receives an appeal petition under subsection (c) shall do the following:

(1) Publish notice under IC 5-3-1 of a public hearing on the appeal. The public hearing must be held not later than forty-five (45) days after the date of filing of the appeal petition under subsection (c).

(2) Hold the public hearing, taking testimony from the appellant and the public on the appeal.

(3) Conduct any inquiry or investigation that the local zoning authority or county executive considers necessary before making a determination.

(e) A local zoning authority or county executive may grant an appeal under subsection (c) for exemption from the one (1) mile limitation under subsection (a) only if the local zoning authority or county executive determines that granting the appeal is consistent with the public health, safety, and welfare.

(f) After a public hearing held under subsection (d), the local zoning authority or county executive shall:

(1) make a written determination on the appeal petition; and

(2) give notice of the determination to:

(A) the appellant; and
(B) the department;
not later than thirty (30) days after the date of the public hearing, unless the local zoning authority or county executive and the appellant agree to a longer time.".

Page 2, line 11, delete "if the limitation in section" and insert "**if:**

(A) the limitation in section 1.5(a) of this chapter applies to; or
(B) an appeal is pending under section 1.5(c) of this chapter with respect to;
the facility that is the subject of the application.".

Page 2, delete lines 12 through 13.

Page 4, between lines 26 and 27, begin a new paragraph and insert:

"SECTION 9. IC 13-18-10-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 11. If:**

(1) a court action is brought against an owner or operator of a confined feeding operation, including a CAFO, by a person other than a political subdivision or a state agency; and
(2) the action includes a complaint against any aspect of the construction or operation of the confined feeding operation or CAFO;

the party prevailing in the action is entitled to recover the costs of the action, including reasonable attorney's fees as determined by the court.

SECTION 10. IC 13-18-10-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 12. The department shall revoke an approval or permit under which a person is allowed to construct or operate a confined feeding operation, including a CAFO, at the time of the third occurrence of either of the following:**

(1) The person is convicted under IC 13-30-6.
(2) A civil penalty is imposed on the person under IC 13-30-4, except for a civil penalty for a minor violation as described in IC 13-30-4-3(a).".

Renumber all SECTIONS consecutively.

(Reference is to HB 11197 as printed February 16, 2007.)

STUTZMAN

Upon request of Representatives Stutzman and Ruppel, the Speaker ordered the roll of the House to be called. Roll Call 178: yeas 58, nays 35. Motion prevailed. The bill was ordered engrossed.

OTHER BUSINESS ON THE SPEAKER'S TABLE

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Bills 45, 104, 113, 114, 158, 171, 235, 246, 264, 270, 276, 279, 286, 293, 311, 315, 341, 357, 411, 451, 461, 466, 467, 472, 480, 500, and 503 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 28 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 29 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 28

The Speaker handed down Senate Concurrent Resolution 28, sponsored by Representatives GiaQuinta and Borror:

A CONCURRENT RESOLUTION recognizing the Carriage House on the occasion of the 10th anniversary of its founding.

Whereas, The Carriage House, founded in 1997 through a partnership with Park Center and the Fort Wayne chapter of the National Alliance on Mental Illness, has a singular mission of "helping adults reclaim their lives from the devastation of mental illness";

Whereas, The National Institute of Mental Health Fact Sheet reports that an estimated 22.1% of Americans ages 18 and older suffer from a diagnosable mental disorder;

Whereas, When this data is applied to the 2000 U.S .Census information for Allen County, it translates to over 54,000 adults suffering from mental illness;

Whereas, The Carriage House helps these people lead more productive lives and avoid the despair that often results from time spent in hospitals or jails;

Whereas, The Carriage House has a total membership of 683 people of which about 220 actively participate; the dedicated staff has already helped over 150 people reenter the workforce and more than 100 people work toward their educational goals;

Whereas, Members of the Carriage House work side by side with staff in a non-traditional setting on meaningful activities to help build the confidence and self-esteem necessary to reclaim their lives;

Whereas, The Carriage House is a day program where members can be found working hand in hand with staff on tasks they might be asked to do in a work environment, such as entering data into computers, preparing food, writing a nationally distributed newsletter, and hiring and evaluating staff;

Whereas, The Carriage House uses the "Clubhouse Model" of psycho-social rehabilitation, which is based on a set of 36 standards ratified by the International Center for Clubhouse Development; and

Whereas, Through assistance with employment, education, housing, and other needs, the Carriage House ensures that members have real opportunities to improve their lives: Therefore,

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

SECTION 1. That the Indiana General Assembly wishes to recognize the outstanding accomplishments of the Carriage House and the many contributions it has made to the citizens of Indiana who are in need of help to make their lives more productive.

SECTION 2. That copies of this resolution be transmitted by the Secretary of the Senate to Patsy Dumas, President of the Board of Directors of the Carriage House and Alexander (Andy) Wilson, Executive Director of the Carriage House.

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

Senate Concurrent Resolution 29

The Speaker handed down Senate Concurrent Resolution 29, sponsored by Representatives GiaQuinta and Borror:

A CONCURRENT RESOLUTION honoring the centennial of United Parcel Service of America, Inc. (UPS) and recognizing the contributions of the company to the citizens of Indiana.

Whereas, On August 28, 2007, United Parcel Service of America, Inc. (UPS) will celebrate its 100th anniversary;

Whereas, Over the past 100 years, the world has witnessed the transformation of UPS from a single-city bicycle messenger company into the world's largest package delivery company;

Whereas, UPS has served Indiana since 1957, employs over 7,000 people in Indiana, and operates 100 facilities across the state;

Whereas, Each day, more than 159,500 Hoosiers use the express delivery and specialized transportation and logistics services that UPS provides;

Whereas, UPS delivers more than 318,000 packages every day to customers across Indiana, connecting people, communities, and businesses;

Whereas, The services UPS provides connect the people of Indiana to more than 200 countries through an expansive transportation network that truly synchronizes global commerce;

Whereas, Since 1995, UPS has contributed more than $3.9 million to philanthropic endeavors in Indiana, reflecting the company's emphasis on community service and citizenship; and

Whereas, UPS will continue to both provide a substantial economic impact to the people of Indiana and focus on cultivating deep partnerships with the communities it serves: Therefore,

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

SECTION 1. That the Indiana General Assembly commemorates the 100th anniversary of UPS and recognizes and celebrates the contributions of UPS to the people of Indiana, both economically and philanthropically.

SECTION 2. That copies of this resolution be transmitted by the Secretary of the Senate to Michael L. Eskew, Chairman and CEO of United Parcel Service of America, Inc.

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

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1196, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 8, nays 0.

BARDON, Chair

Report adopted.

OTHER BUSINESS ON THE SPEAKER'S TABLE

Referrals to Ways and Means withdrawn

The Speaker announced that the referral of House Bills 1256 and 1563 to the Committee on Ways and Means, pursuant to Rule 127, had been withdrawn.

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Bill 1033, Roll Call 152, on February 20, 2007. In support of this petition, I submit the following reason:

"I was present in the Chamber, but when I attempted to vote, the machine had closed. I intended to vote yea."

GOODIN

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 152 to 82 yeas, 10 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Bill 1046, Roll Call 153, on February 20, 2007. In support of this petition, I submit the following reason:

"I was present and in my seat, but when I attempted to vote, my vote failed to register. I intended to vote yea."

DERMODY

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 153 to 96 yeas, 0 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on Representative T. Harris's second reading amendment to House Bill 1257, Roll Call 143, on February 20, 2007. In support of this petition, I submit the following reason:

"I was present in the Chamber, but when I attempted to vote, the machine had closed. I intended to vote nay."

GOODIN

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 143 to 45 yeas, 48 nays.*]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the third reading of Engrossed House Bill 1378, Roll Call 110, on February 13, 2007. In support of this petition, I submit the following reason:

"I was present and in my seat, but when I attempted to vote, I inadvertently pushed the yea button when I intended to vote nay."

GOODIN

There being a constitutional majority voting in favor of the petition, the petition was adopted. [*Journal Clerk's note: this changes the vote tally for Roll Call 110 to 89 yeas, 6 nays.*]

HOUSE MOTION

Mr. Speaker: I move that Representative Austin be added as coauthor of House Bill 1012.

KOCH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Buck and Tyler be added as coauthors of House Bill 1211.

VAN HAAFTEN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Duncan and Welch be added as coauthors of House Bill 1269.

FRIEND

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Whetstone be added as coauthor of House Bill 1280.

KERSEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Dobis be added as coauthor of House Bill 1392.

VAN HAAFTEN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Frizzell be added as coauthor of House Bill 1468.

WELCH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Turner be added as coauthor of House Bill 1478.

KUZMAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Micon be added as coauthor of House Bill 1505.

BARDON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Ruppel and Robertson be added as coauthors of House Bill 1581.

BISCHOFF

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Dvorak and Duncan be added as coauthors of House Bill 1617.

ORENTLICHER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Elrod be added as coauthor of House Bill 1653.

DEMBOWSKI

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Mays and Hinkle be added as coauthors of House Bill 1659.

AUSTIN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Dermody be added as coauthor of House Bill 1742.

PELATH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Turner be added as coauthor of House Bill 1778.

SUMMERS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Whetstone be added as coauthor of House Bill 1835.

VAN HAAFTEN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Whetstone be added as coauthor of House Bill 1837.

PELATH

Motion prevailed.

On the motion of Representative Candelaria Reardon, the House adjourned at 7:25 p.m., this twentieth day of February, 2007, until Wednesday, February 21, 2007, at 10:00 a.m.

B. PATRICK BAUER
Speaker of the House of Representatives

CLINTON McKAY
Principal Clerk of the House of Representatives