Journal of the House

State of Indiana

111th General Assembly — Second Regular Session

Thirteenth Meeting Day — **Monday Afternoon** — **January 24, 2000**

The House convened at 1:00 p.m. with the Speaker in the Chair.

The invocation was offered by Reverend Ralph McVay, First Baptist Church, Orleans, the guest of Representative Jerry L. Denbo.

The Pledge of Allegiance to the Flag was led by Representative Claire Leuck.

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

T. Adams	Kromkowski
Alderman	Kruse
Atterholt	Kruzan
Avery	Kuzman
Ayres	Lawson
Bailey	Leuck
Bardon	Liggett
Bauer	Linder
Becker	J. Lutz
Behning	Lytle
Bischoff	Mahern
Bodiker	Mangus
Bosma	Mannweiler
Bottorff	McClain
C. Brown	Mellinger
T. Brown	Mock
Buck	Moses
Budak	Munson
Buell	Murphy
Burton	Oxley
Cheney	Pelath
Cherry	Pond
Cochran	Porter
Cook	Richardson
Crawford	Ripley
Crooks	Robertson
Crosby	Ruppel
Day	Saunders
Denbo	Scholer
Dickinson	M. Smith
Dillon	V. Smith
Dobis	Steele
Dumezich	Stevenson
Duncan	Stilwell
Dvorak	Sturtz
Espich	Summers
Foley	Thompson
Frenz	Tincher
Friend	Torr
Frizzell	Turner
Fry	Ulmer
GiaQuinta	Villalpando
Goeglein	Weinzapfel
Grubb	Welch
Harris	Whetstone
Hasler	Wolkins
Herrell	D. Young
Hoffman	M. Young
Kersey	Yount
Klinker	Mr. Speaker

Roll Call 55: 100 present. The Speaker announced a quorum in attendance. [*NOTE*: • *indicates those who were excused*.]

HOUSE MOTION

Mr. Speaker: I move that we dispense with the reading of the Journal.

HASLER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Tuesday, January 25, 2000, at 1:00 p.m.

ROBERTSON

Motion prevailed.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolutions 11 and 12 and the same are herewith returned to the House.

CAROLYN J. TINKLE
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 Engrossed Senate Bills 7, 45, 147, 204, 207, 268, 271, and 317 and the same are herewith transmitted to the House for further action.

CAROLYN J. TINKLE
Secretary of the Senate

OTHER BUSINESS ON THE SPEAKER'S TABLE

Referrals to Ways and Means

The Speaker announced, pursuant to House Rule 127, that House Bill 1130 had been referred to the Committee on Ways and Means.

RESOLUTIONS ON FIRST READING

House Resolution 8

Representative Denbo introduced House Resolution 8:

A HOUSE RESOLUTION to congratulate the members of the Pride of Paoli Marching Band on their unprecedented 11th victory.

Whereas, the talent and efforts of the student members of this program, along with the hard work, inspiration and organization of the adult staff and volunteers has produced a record-setting achievement for Indiana high school marching bands: namely, 18 consecutive appearances in the state championship finals; 11 state championships; and 4 consecutive state championships, the most recent being the 1999 state championship;

Whereas, the senior members of the Pride of Paoli marching band contributed superior leadership, dedication, and patience, and by their example showed the way for other members of this outstanding program to perform like champions;

Whereas, the discipline, efforts and developed talents achieved by the members of this program will remain valuable enhancements to the quality of their lives; and

Whereas, the remarkable achievements of the Pride of Paoli marching band were enabled by the inspired leadership of the band directors Bill and Gayle Laughlin and other staff and by the

organizational backing of the entire administration of the Paoli Community Schools and by the generous volunteer support provided by the parents, other relatives and friends of these championship students: Therefore,

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

SECTION 1. That the House of Representatives of the Indiana General Assembly congratulates the program of Pride of Paoli Marching Band on its unprecedented 11th State Championship.

SECTION 2. That the House of Representatives of the Indiana General Assembly congratulates each and every individual member of the Pride of Paoli Marching Band for their talents, hard work and success, and wishes that they use this championship experience to enrich the rest of their lives and the lives of their families and community.

SECTION 3. That the House of Representatives of the Indiana General Assembly honors the directors, staff, parents and all the community volunteers who have contributed to the success of the Pride of Paoli Marching Band program.

SECTION 4. That the Principal Clerk of the Indiana House of Representatives transmit a copy of this resolution to the Pride of Paoli Marching Band.

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

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1009, 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 10 and 11, begin a new paragraph and insert:

"SECTION 2. IC 24-4.5-1-301 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 301. General Definitions)In addition to definitions appearing in subsequent chapters in this article:

(1) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances, including course of dealing or usage of trade or course of performance.

(2) "Agricultural purpose" means a purpose related to the production,harvest,exhibition,marketing,transportation,processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures the agricultural products; "Agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any and all products raised or produced on farms and any processed or manufactured products thereof.

(3) "Average daily balance" means the sum of each of the daily balances in a billing cycle divided by the number of days in the billing cycle, and if the billing cycle is a month, the creditor may elect to treat the number of days in each billing cycle as thirty (30).

(4) "Closing costs" with respect to a debt secured by an interest in land includes:

(a) fees or premiums for title examination, title insurance, or similar purposes, including surveys;

(b) fees for preparation of a deed, settlement statement, or other documents;

(c) escrows for future payments of taxes and insurance;

(d) fees for notarizing deeds and other documents;

(e) appraisal fees; and

(f) credit reports.

(5) "Conspicuous": A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it.

(6) "Consumer credit" means credit offered or extended to a consumer primarily for a personal, family, or household purpose.

(7) "Credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(8) "Creditor" means a person:

(a) who regularly engages in the extension of consumer credit that is subject to a credit service charge or loan finance charge, as applicable, or is payable in installments; and

(b) to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is not a note or contract.

(9) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments under a pension or retirement program.

(10) "Lender credit card or similar arrangement" means an arrangement or loan agreement, other than a seller credit card, pursuant to which a lender gives a debtor the privilege of using a credit card, letter of credit, or other credit confirmation or identification in transactions out of which debt arises:

(a) by the lender's honoring a draft or similar order for the payment of money drawn or accepted by the debtor;

(b) by the lender's payment or agreement to pay the debtor's obligations; or

(c) by the lender's purchase from the obligee of the debtor's obligations.

(11) "Official fees" means:

(a) fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest related to a consumer credit sale, consumer lease, or consumer loan; or

(b) premiums payable for insurance in lieu of perfecting a security interest otherwise required by the creditor in connection with the sale, lease, or loan, if the premium does not exceed the fees and charges described in paragraph (a) which would otherwise be payable.

(12) "Organization" means a corporation, government or governmentalsubdivision or agency, trust, estate, partnership, limited liability company, cooperative, or association.

(13) "Payable in installments" means that payment is required or permitted by written agreement to be made in more than four (4) installments not including a down payment.

(14) "Person" includes a natural person or an individual, and an organization.

(15) "Person related to" with respect to an individual means:

(a) the spouse of the individual;

(b) a brother, brother-in-law, sister, sister-in-law of the individual;

(c) an ancestor or lineal descendants of the individual or the individual's spouse; and

(d) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

"Person related to" with respect to an organization means:

(a) a person directly or indirectly controlling, controlled by, or under common control with the organization;

(b) an officer or director of the organization or a person performing similar functions with respect to the organization or to a person related to the organization;

(c) the spouse of a person related to the organization; and

(d) a relative by blood or marriage of a person related to the organization who shares the same home with him.

(16) "Presumed" or "presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(17) "Mortgage transaction" means a transaction in which a first mortgage or a land contract which constitutes a first lien is created or retained against land.

(18) "Regularly engaged" means a person who extends consumer credit more than:

(a) twenty-five (25) times; or

(b) five (5) times for transactions secured by a dwelling;

in the preceding calendar year. If a person did not meet these numerical standards in the preceding calendar year, the numerical standards shall be applied to the current calendar year.

(19) "Seller credit card" means an arrangement which gives to a buyer or lessee the privilege of using a credit card, letter of credit, or other credit confirmation or identification for the purpose of purchasing or leasing goods or services from that person, a person related to that person, or fromthat person and any other person. The term includes a card that is issued by a person, that is in the name of the seller, and that can be used by the buyer or lessee only for purchases or leases at locations of the named seller.

(20) "Supervised financial organization" means a person, other than an insurance company or other organization primarily engaged in an insurance business:

(a) organized, chartered, or holding an authorization certificate under the laws of a state or of the United States which authorizes the person to make loans and to receive deposits, including a savings, share, certificate, or deposit account; and

(b) subject to supervision by an official or agency of a state or of the United States.

(21) "Mortgage servicer" means the last person to whom a mortgagor or the mortgagor's successor in interest has been instructed by a mortgagee to send payments on a loan secured by a mortgage.

SECTION 3. IC 24-4.5-2-104 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 104. (1) Except as provided in subsection (2), "consumer credit sale" is a sale of goods, services, or an interest in land in which:

(a) credit is granted by a person who regularly engages as a seller in credit transactions of the same kind;

(b) the buyer is a person other than an organization;

(c) the goods, services, or interest in land are purchased primarily for a personal, family, or household purpose;

(d) either the debt is payable in installments or a credit service charge is made; and

(e) with respect to a sale of goods or services, either the amount financed does not exceed fifty thousand dollars ($50,000) or the debt is secured by personal property used or expected to be used as the principal dwelling of the buyer.

(2) Unless the sale is made subject to this article by agreement (IC 24-4.5-2-601), "consumer credit sale" does not include:

(a) a sale in which the seller allows the buyer to purchase goods or services pursuant to a lender credit card or similar arrangement; or

(b) except as provided with respect to disclosure (IC 24-4.5-2-301), debtors' remedies (IC 24-4.5-5-201)**, providing payoff amounts (IC 24-4.5-3-209),** and powers and functions of the department (IC 24-4.5-6-101), a sale of an interest in land which is a mortgage transaction (as defined in IC 24-4.5-1-301(17)).

SECTION 4. IC 24-4.5-3-105 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 105. Unless the loan is made subject to IC 24-4.5-3 by agreement (IC 24-4.5-3-601), and except with respect to disclosure (IC 24-4.5-3-301), debtors' remedies (IC 24-4.5-5-201), **providing payoff amounts (IC 24-4.5-3-209),** and powers and functions of the department (IC 24-4.5-6-101), "consumer loan" does not include a loan primarily secured by an interest in land which is a mortgage transaction (as defined in IC 24-4.5-1-301(17)).".

Page 2, line 19, after "prepaid credit service charge" delete "," and insert "**but excluding the loan origination fee allowed under IC 24-4.5-3-201,**".

Page 2, line 22, after "creditor" insert "**or mortgage servicer**".

Page 2, line 24, after "creditor" insert "**or mortgage servicer**".

Page 2, line 25, after "creditor" insert "**or mortgage servicer**".

Page 2, line 29, after "creditor" insert "**or mortgage servicer**".

Page 2, line 30, after "creditor" insert "**or mortgage servicer**".

Page 2, line 35, after "creditor" insert "**or mortgage servicer**".

Page 2, line 39, after "creditor" insert "**or mortgage servicer**".

Page 2, line 40, after "creditor" insert "**or mortgage servicer**".

Page 2, line 41, after "creditor" insert "**or mortgage servicer**".

Page 2, between lines 41 and 42, begin a new line blocked left and insert:

"**A liability under this subsection is an excess charge under IC 24-4.5-5-202.**".

Page 3, line 17, after "prepaid finance charge" delete "," and insert "**but excluding the loan origination fee allowed under IC 24-4.5-3-201,**".

Page 3, line 20, after "creditor" insert "**or mortgage servicer**".

Page 3, line 22, after "creditor" insert "**or mortgage servicer**".

Page 3, line 23, after "creditor" insert "**or mortgage servicer**".

Page 3, line 26, after "creditor" insert "**or mortgage servicer**".

Page 3, line 27, after "creditor" insert "**or mortgage servicer**".

Page 3, line 32, after "creditor" insert "**or mortgage servicer**".

Page 3, line 36, after "creditor" insert "**or mortgage servicer**".

Page 3, line 37, after "creditor" insert "**or mortgage servicer**".

Page 3, line 38, after "creditor" insert "**or mortgage servicer**".

Page 3, between lines 38 and 39, begin a new line blocked left and insert the following:

"**A liability under this subsection is an excess charge under IC 24-4.5-5-202.**".

Page 4, line 25, after "agency" insert "**or criminal history records repository**".

Page 5, line 11, after "the" insert "**later of:**

(A) the date the creditor is reasonably satisfied that the consumer has not rescinded the transaction; or

(B) the".

Page 5, line 26, after "agency" insert "**or criminal history records repository**".

Page 7, line 32, after "agency" insert "**or criminal history records repository**".

Page 8, line 14, after "agency" insert "**or criminal history records repository**".

Page 8, line 27, after "agency" insert "**or criminal history records repository**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1009 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

BODIKER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1010, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective date in SECTION 1 with "[EFFECTIVE UPON PASSAGE]".

Page 2, after line 16, begin a new paragraph and insert:

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

(Reference is to HB 1010 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 13, nays 0.

BODIKER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1013, 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 12, nays 0.

DVORAK, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1036, 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 5, delete "." and insert:

"**but not including participation in site based management duties. However, the following apply:**

(1) This section applies only to dismissal of a teacher from an extracurricular assignment during a school year or during the term of a contract for the assignment.

(2) This section does not apply to the following:

(A) The nonrenewal of a teacher's extracurricular assignment for a school year subsequent to a school year in which the teacher has a particular extracurricular assignment.

(B) The nonrenewal of an expired contract for an extracurricular assignment.".

Page 3, line 1, after "(6)" insert: "**The teacher shall determine whether the hearing is held in executive session or in a meeting that is open to the public.**".

Page 3, line 34, after "(d)(1)" insert "**with final action taken at a meeting that is open to the public**".

(Reference is to HB 1036 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 6.

PORTER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1051, 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 motor vehicles.

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

"SECTION 1. IC 9-14-3.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9. ~~Personal information may be disclosed under section 10 of this chapter to a person who demonstrates, in a form and manner prescribed by the bureau, that written consent has been obtained fromthe person who is the subject of the information.~~ **The bureau may not knowingly disseminate a person's:**

(1) driver's license photograph or computerized image;

(2) Social Security number; or

(3) medical or disability information;

from a motor vehicle record (as defined in section 4 of this chapter) without the express consent of the person to whom such information pertains, except as provided under sections 8, 10, and 11 of this chapter. However, this section does not affect the use of anatomical gift information on a person's driver's license or the administration of anatomical initiatives in Indiana.

SECTION 2. IC 9-14-3.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. The bureau may disclose personal information to a person if the person requesting the information provides proof of identity and represents that the use of the personal information will be strictly limited to at least one (1) of the following:

(1) For use by a government agency, including a court or law enforcement agency, in carrying out its functions, or a person acting on behalf of a government agency in carrying out its functions.

(2) For use in connection with matters concerning:

(A) motor vehicle or driver safety and theft;

(B) motor vehicle emissions;

(C) motor vehicle product alterations, recalls, or advisories;

(D) performance monitoring of motor vehicles, motor vehicle parts, and dealers;

(E) motor vehicle market research activities, including survey research; and

(F) the removal of nonowner records from the original owner records of motor vehicle manufacturers.

(3) For use in the normal course of business by a business or its agents, employees, or contractors, but only:

(A) to verify the accuracy of personal information submitted by an individual to the business or its agents, employees, or contractors; and

(B) if information submitted to a business is not correct or is no longer correct, to obtain the correct information only for purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

(4) For use in connection with a civil, a criminal, an administrative, or an arbitration proceeding in a court or government agency or before a self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or under an order of a court.

(5) For use in research activities, and for use in producing statistical reports, as long as the personal information is not published, re-disclosed, or used to contact the individuals who are the subject of the personal information.

(6) For use by an insurer, an insurance support organization, or a self-insured entity, or the agents, employees, or contractors of an insurer, an insurance support organization, or a self-insured entity in connection with claims investigation activities, anti-fraud activities, rating, or underwriting.

(7) For use in providing notice to the owners of towed or impounded vehicles.

(8) For use by a licensed private investigative agency or licensed security service for a purpose allowed under this section.

(9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. 2710 et seq.).

(10) For use in connection with the operation of private toll transportation facilities.

(11) For ~~distribution of automotive-related surveys, marketing, or solicitations after the bureau has implemented methods and procedures to ensure that:~~

~~(A) a person who is the subject of personal information requested is provided an opportunity, in a clear and conspicuous manner, to prohibit the uses;~~

~~(B) the information will be used, rented, or sold only for bulk distribution for automotive-related surveys, marketing, and solicitations; and~~

~~(C) the automotive-related surveys, marketing, and solicitations will not be directed at those individuals who have requested in a timely fashion that such material not be directed at them.~~ **any use in response to requests for individual motor vehicle records when the bureau has obtained the written consent of the person to whom such personal information pertains.**

(12) **For bulk distribution for surveys, marketing, or solicitations when the bureau has obtained the written consent of the person to whom such personal information pertains.**

(13) For use by any person, when the person demonstrates, in a form and manner prescribed by the bureau, that written consent has been obtained from the individual who is the subject of the information.

(14) For any other use specifically authorized by law that is related to the operation of a motor vehicle or public safety.

SECTION 3. IC 9-14-3.5-11, AS AMENDED BY P.L.222-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 11. ~~(a) Personal information that is contained in an individual record may be disclosed to a person, without regard to intended use, if the bureau has provided in a clear and conspicuous manner on forms for issuance or renewal of operator's licenses, registrations, titles, or identification documents:~~

~~(1) notice that personal information collected by the bureau may be disclosed to any person making a request for an individual record; and~~

~~(2) an opportunity for each person who is the subject of a record to prohibit the disclosure.~~

~~(b)~~ The bureau shall disclose the name and address of a purchaser of a special group recognition license plate issued under IC 9-18-25-2(3) supporting a state educational institution (as defined in IC 20-12-0.5-1) to a representative designated and authorized to receive the personal information by the state educational institution, if the ~~purchaser purchased the plate~~ **bureau obtained the written consent of the purchaser regarding the disclosure and the plate was purchased** in a year:

(1) beginning after December 31, 1998; and

(2) in which at least ten thousand (10,000) of the special group's recognition license plates issued under IC 9-18-25-2(3) are sold or renewed.

SECTION 4. IC 9-14-3.5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 13. (a) An authorized recipient of personal information, except a recipient under section 10(11) or ~~11~~ **10(12)** of this chapter, may resell or re-disclose the information for any use allowed under section 10 of this chapter, except for a use under section 10(11) **or 10(12)** of this chapter.

(b) An authorized recipient of a record under section ~~11~~ **10(11)** of this chapter may resell or re-disclose personal information for any purpose.

(c) An authorized recipient of personal information under IC 9-14-3-6 and section ~~10(11)~~ **10(12)** of this chapter may resell or re-disclose the personal information for use only in accordance with section ~~10(11)~~ **10(12)** of this chapter.

(d) Except for a recipient under section ~~11~~ **10(11)** of this chapter, a recipient who resells or re-discloses personal information is required to maintain and make available for inspection to the bureau, upon request, for at least five (5) years, records concerning:

(1) each person that receives the information; and

(2) the permitted use for which the information was obtained.

SECTION 5. IC 9-24-19 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 19. Penalty Provisions for Operating a Motor Vehicle With Suspended or Revoked Driving Privileges, Licenses, or Permits

Sec. 1. Except as provided in sections 2, 3, and 5 of this chapter, a person who operates a motor vehicle upon a highway while the person's driving privilege, license, or permit is suspended or revoked commits a Class A infraction.

Sec. 2. A person who knowingly or intentionally operates a motor vehicle upon a highway while the person's driving privilege, license, or permit is suspended or revoked, when less than ten (10) years have elapsed between:

(1) the date a judgment was entered against the person for a prior unrelated violation of section 1 of this chapter, this section, IC 9-1-4-52 (repealed July 1, 1991), or IC 9-24-18-5(a) (repealed July 1, 2000); and

(2) the date the violation described in subdivision (1) was committed;

commits a Class A misdemeanor.

Sec. 3. A person who knowingly or intentionally operates a motor vehicle upon a highway while the person's driving privilege, license, or permit is suspended or revoked, when the person's suspension or revocation was a result of the person's conviction of an offense (as defined in IC 35-41-1-19) commits a Class A misdemeanor. However, notwithstanding IC 35-50-3-2, and except as provided in section 4 of this chapter, a person who violates this section shall be imprisoned for a fixed term of not less than sixty (60) days and not more than one (1) year. Notwithstanding IC 35-50-3-1, and except as provided in section 4 of this chapter, the court may not suspend any part of the term of imprisonment except that part in excess of sixty (60) days.

Sec. 4. The nonsuspendible fixed term of imprisonment imposed under section 3 of this chapter does not apply to a person who has committed a Class A misdemeanor under section 2 of this chapter as a result of a violation of IC 9-25-6-19 or IC 12-17-2-35.

Sec. 5. A person who knowingly or intentionally operates a motor vehicle upon a highway while the person's driving privilege, license, or permit is suspended or revoked as a result of a misdemeanor or felony conviction commits a Class D felony. However, the offense is a Class C felony if the operation results in the death of another person.

Sec. 6. (a) In addition to any other penalty imposed for a conviction under this chapter, the court shall recommend that the person's driving privileges be suspended for a fixed period of not less than ninety (90) days and not more than two (2) years.

(b) The court shall specify:

(1) the length of the fixed period of suspension; and

(2) the date the fixed period of suspension begins;

whenever the court makes a recommendation under subsection (a).

Sec. 7. The bureau shall, upon receiving a record of conviction of a person upon a charge of driving a vehicle while the person's driving privilege, permit, or license was suspended, extend the period of suspension for a fixed period of not less than ninety (90) days and not more than two (2) years. The bureau shall fix this period in accordance with the recommendation of the court that entered the conviction, as provided in section 6 of this chapter.

Sec. 8. In a prosecution under this chapter, the burden is on the defendant to prove by a preponderance of the evidence that the defendant had been issued a driving license or permit that was valid at the time of the alleged offense.

SECTION 6. IC 9-30-10-4, AS AMENDED BY P.L.1-2000, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) A person who has accumulated at least two (2) judgments within a ten (10) year period for any of the following violations, singularly or in combination, not arising out of the same incident, and with at least one (1) violation occurring after March 31, 1984, is a habitual violator:

(1) Reckless homicide resulting from the operation of a motor vehicle.

(2) Voluntary or involuntary manslaughter resulting from the operation of a motor vehicle.

(3) Failure of the driver of a motor vehicle involved in an accident resulting in death or injury to any person to stop at the scene of the accident and give the required information and assistance.

(4) Operation of a vehicle while intoxicated resulting in death.

(5) Before July 1, 1997, operation of a vehicle with at least ten-hundredths percent (0.10%) alcohol in the blood resulting in death.

(6) After June 30, 1997, operation of a vehicle with an alcohol concentration equivalent to at least ten-hundredths (0.10) gram of alcohol per:

(A) one hundred (100) milliliters of the blood; or

(B) two hundred ten (210) liters of the breath;

resulting in death.

(b) A person who has accumulated at least three (3) judgments within a ten (10) year period for any of the following violations, singularly or in combination, not arising out of the same incident, and with at least one (1) violation occurring after March 31, 1984, is a habitual violator:

(1) Operation of a vehicle while intoxicated.

(2) Before July 1, 1997, operation of a vehicle with at least ten-hundredths percent (0.10%) alcohol in the blood.

(3) After June 30, 1997, operation of a vehicle with an alcohol concentration equivalent to at least ten-hundredths (0.10) gram of alcohol per:

(A) one hundred (100) milliliters of the blood; or

(B) two hundred ten (210) liters of the breath.

(4) Operating a motor vehicle while the person's license to do so has been suspended or revoked as a result of the person's conviction of an offense under IC 9-1-4-52 (repealed July 1, 1991), ~~or~~ IC 9-24-18-5(b) **(repealed July 1, 2000), IC 9-24-19-3, or IC 9-24-19-5.**

(5) Operating a motor vehicle without ever having obtained a license to do so.

(6) Reckless driving.

(7) Criminal recklessness involving the operation of a motor vehicle.

(8) Drag racing or engaging in a speed contest in violation of law.

(9) Violating IC 9-4-1-40 (repealed July 1, 1991), IC 9-4-1-46 (repealed July 1, 1991), IC 9-26-1-1(1), IC 9-26-1-1(2), IC 9-26-1-1(4), IC 9-26-1-2(1), IC 9-26-1-2(2), IC 9-26-1-3, or IC 9-26-1-4.

(10) Any felony under an Indiana motor vehicle statute or any felony in the commission of which a motor vehicle is used.

A judgment for a violation enumerated in subsection (a) shall be added to the violations described in this subsection for the purposes of this subsection.

(c) A person who has accumulated at least ten (10) judgments within a ten (10) year period for any traffic violation, except a parking or an equipment violation, of the type required to be reported to the bureau, singularly or in combination, not arising out of the same incident, and with at least one (1) violation occurring after March 31, 1984, is a habitual violator. However, at least one (1) of the judgments must be for a violation enumerated in subsection (a) or (b). A judgment for a violation enumerated in subsection (a) or (b) shall be added to the judgments described in this subsection for the purposes of this subsection.

SECTION 7. IC 14-15-11-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 11. (a) Except as provided in subsection (b), a person who operates a motorboat upon public waters while the person's Indiana driver's license is suspended or revoked commits a Class A infraction. However, if:

(1) a person knowingly or intentionally violates this subsection; and

(2) less than ten (10) years have elapsed between the date a judgment was entered against the person for a prior unrelated violation of this subsection, IC 9-1-4-52 (repealed July 1, 1991), ~~or~~ IC 9-24-18-5 **(repealed July 1, 2000), or IC 9-24-19** and the date the violation described in subdivision (1) was committed;

the person commits a Class A misdemeanor.

(b) If:

(1) a person operates a motorboat upon public waters while the person's Indiana driver's license is suspended or revoked; and

(2) the person's suspension or revocation was a result of the person's conviction of an offense (as defined in IC 35-41-1-19);

the person commits a Class A misdemeanor. However, notwithstanding IC 35-50-3-2, a person who violates this subsection shall be imprisoned for a fixed term of not less than sixty (60) days and not more than one (1) year. Notwithstanding IC 35-50-3-1, the court may not suspend any part of the sentence except that part of the sentence exceeding sixty (60) days.

(c) In addition to any other penalty imposed for a conviction under this section, the court shall recommend that the person's privileges to operate a motorboat upon public waters be suspended for a fixed period of not less than ninety (90) days and not more than two (2) years.

(d) The bureau, upon receiving a record of conviction of a person on a charge of operating a motorboat while the person's driver's license was suspended, shall extend the period of suspension for a fixed period of not less than ninety (90) days and not more than two (2) years. The bureau shall fix this period in accordance with the recommendation of the court that entered the conviction.

(e) In a prosecution under this section, the burden is on the defendant to prove by a preponderance of the evidence that, at the time of the alleged offense, the defendant held a valid Indiana driver's license.".

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

"**(c) If a juvenile court orders the bureau of motor vehicles to reinstate a child's driving privileges under subsection (b), the bureau shall comply with the order. Unless the order for reinstatement is issued as provided under IC 9-30-6-11(a)(2) because of a violation of the speedy trial provisions applicable to the juvenile court, the bureau shall also do the following:**

(1) Remove any record of the suspension from the bureau's recordkeeping system.

(2) Reinstate the privileges without cost to the person.

(d) If a juvenile court orders a suspension under this section and the child did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the delinquent act that would have been an offense under IC 9-30-5 if committed by an adult, the juvenile court may grant the child probationary driving privileges for one hundred eighty (180) days in conformity with the procedures in IC 9-30-5-12. The standards and procedures in IC 9-30-5-11 and IC 9-30-5-13 apply to an action under this subsection.

(e) If a proceeding described in this section is terminated in favor of the child and the child did not refuse to submit to a chemical test offered as provided under IC 9-30-6-2 during the investigation of the delinquent act that would be an offense under IC 9-30-5 if committed by an adult, the bureau shall remove any record of the suspension, including the reasons for the suspension, from the child's official driving record.

(f) The bureau of motor vehicles may adopt rules under IC 4-22-2 to carry out this section.".

Page 2, between lines 13 and 14, begin a new paragraph and insert:

"**(d) If a juvenile court orders the bureau of motor vehicles to reinstate a child's driving privileges under subsection (c), the bureau shall comply with the order. Unless the order for reinstatement is issued as provided under IC 9-30-6-11(a)(2) because of a violation of the speedy trial provisions applicable to the juvenile court, the bureau shall also do the following:**

(1) Remove any record of the suspension from the bureau's recordkeeping system.

(2) Reinstate the privileges without cost to the person.

(e) If:

(1) a juvenile court recommends suspension of a child's driving privileges under this section; and

(2) the child did not refuse to submit to a chemical test offered as provided under IC 9-30-6-2 during the investigation of the delinquent act that would be an offense under IC 9-30-5 if committed by an adult;

the juvenile court may stay the execution of the suspension of the child's driving privileges and grant the child probationary driving privileges for one hundred eighty (180) days.

(f) If a juvenile court orders a suspension under this section and the child did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the delinquent act that would have been an offense under IC 9-30-5 if committed by an adult, the juvenile court may grant the child probationary driving privileges for one hundred eighty (180) days in conformity with the procedures in IC 9-30-5-12. The standards and procedures in IC 9-30-5-11 and IC 9-30-5-13 apply to an action under this subsection.

(g) A child whose driving privileges are suspended under this section is entitled to credit for any days during which the license was suspended under IC 31-37-5-7, if the child did not refuse to submit to a chemical test offered as provided under IC 9-30-6-2 during the investigation of the delinquent act that would be an offense under IC 9-30-5 if committed by an adult.

(h) A period of suspension of driving privileges imposed under this section must be consecutive to any period of suspension imposed under IC 31-37-5-7. However, if the juvenile court finds in the sentencing order that it is in the best interest of society, the juvenile court may terminate all or any part of the remaining suspension under IC 31-37-5-7.

(i) The bureau of motor vehicles may adopt rules under IC 4-22-2 to carry out this section.".

Page 2, line 17, after "in" insert "**IC 31-37-5-7 or**".

Page 2, after line 24, begin a new line blocked left and insert:

"**If a juvenile court recommends suspension of driving privileges under section 17.3 of this chapter, IC 9-30-6-12(b), IC 9-30-6-12(c), and IC 9-30-6-12(d) apply to the child's driving privileges.**

SECTION 11. IC 9-24-18-5 IS REPEALED [EFFECTIVE JULY 1, 2000].".

Renumber all SECTIONS consecutively.

(Reference is to HB 1051 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

DVORAK, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1146, 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 11, nays 0.

DVORAK, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1202, 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.

STEVENSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1221, 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, line 9, after "clause (A)(ii)" insert " **not later than thirty (30) days after the expiration of the term of either the township trustee member or the fifth citizen member appointed under this clause,**".

Page 2, line 20, after "trustee." insert "**Each member appointed to the commission is entitled to receive compensation for mileage at the same rate and the same compensation for services as a member of a county executive, a member of a county fiscal body, a county surveyor, or an appointee of a county surveyor receives for serving on the commission, as set forth in section 222.5 of this chapter.**".

Page 3, after line 20, begin a new paragraph and insert:

"SECTION 2. [EFFECTIVE SEPTEMBER 30, 1999 (RETROACTIVE)] **(a) This SECTION applies to a county plan commission that did not have a township trustee appointed to the plan commission as a member in accordance with IC 36-7-4-208(a)(5), as amended by this act, on or after October 1, 1999.**

(b) The acts of the plan commission taken after September 30, 1999, and before the effective date of IC 36-7-4-208, as amended by this act, are legalized.

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

Renumber all SECTIONS consecutively.

(Reference is to HB 1221 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

STEVENSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1241, 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 10, nays 0.

STEVENSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1319, 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.

STEVENSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1376, 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 13, nays 0.

BODIKER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1418, 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.

BODIKER, Chair

Report adopted.

The House recessed until the fall of the gavel.

HOUSE BILLS ON SECOND READING

The following bills were called down by their respective authors, were read a second time by title, and, there being no amendments, were ordered engrossed: House Bills 1037, 1053, 1062, 1108, 1141, 1142, 1162, 1166, 1187, 1201, 1329, 1330, 1334, 1371, and 1419.

House Bill 1368

Representative V. Smith called down House Bill 1368 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1368–1)

Mr. Speaker: I move that House Bill 1368 be amended to read as follows:

Page 2, delete lines 11 through 39.

CROOKS

The Speaker ordered a division of the House and appointed Representatives Kruzan and Bosma to count the yeas and nays. Yeas 44, nays 48. Motion failed. The bill was ordered engrossed.

House Bill 1316

Representative L. Lawson called down House Bill 1316 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1316–1)

Mr. Speaker: I move that House Bill 1316 be amended to read as follows:

Page 3, after line 10, begin a new paragraph and insert:

"SECTION 2. IC 9-13-2-143 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 143. "Public passenger chauffeur" means any of the following:

(1) A person who operates a motor vehicle while in use as a school bus for the transportation of pupils to or from school, or to or from school athletic games or contests.

(2) A person who operates a motor vehicle other than a medical services vehicle while in use as a public passenger carrying vehicle.

(3) A person who operates a motor vehicle while in use by a contract carrier that transports railroad employees under the terms of a contractual agreement with the railroad, as set forth in IC 8-9-11.".

(Reference is to HB 1316 as printed January 20, 2000.)

L. LAWSON

Motion prevailed. The bill was ordered engrossed.

House Bill 1267

Representative Frenz called down House Bill 1267 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1267–1)

Mr. Speaker: I move that House Bill 1267 be amended to read as follows:

Page 2, line 20, after "each" insert "new".

(Reference is to HB 1267 as printed January 19, 2000.)

FRENZ

Motion prevailed.

HOUSE MOTION
(Amendment 1267–2)

Mr. Speaker: I move that House Bill 1267 be amended to read as follows:

Page 1, line 15, delete “school bus whenever the school bus is being driven on a “.

(Reference is to HB1267 as printed January 20, 2000.)

THOMPSON

Motion prevailed. The bill was ordered engrossed.

House Bill 1167

Representative Summers called down House Bill 1167 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1167–1)

Mr. Speaker: I move that House Bill 1167 be amended to read as follows:

Page 1, line 17, before "In" insert "**Except as provided in subsection (b)(2) of this section, in**" and strike "In".

Page 1, line 17, reset in roman "the ordinance may not be".

Page 2, reset in roman lines 1 through 10.

Page 2, line 11, reset in roman "body. After the public hearing," and delete "must hold a".

Page 2, line 12, delete "public hearing and then".

Page 2, between lines 17 and 18, begin a new paragraph line block indented and insert:

"**(2) In the case of the fire district, when considering adding territory within the township having the largest population in the county, the legislative body must hold a public hearing and then may pass the ordinance only if it determines:**

(A) that reasonable and adequate fire protection service can be provided within the additional territory by the consolidated city;

(B) that the additional territory include no more than the territory of the township having the largest population in the county; and

(C) that expansion of the district is in the public interest."

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

Page 2, line 25, strike "(3)" and insert "**(4)**".

(Reference is to HB 1167 as printed January 20, 2000.)

MURPHY

Upon request of Representatives Murphy and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 56: yeas 45, nays 48. Motion failed. The bill was ordered engrossed.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 2:05 p.m. with the Speaker in the Chair.

HOUSE BILLS ON SECOND READING

House Bill 1158

Representative Crosby called down House Bill 1158 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1158–2)

Mr. Speaker: I move that House Bill 1158 be amended to read as follows:

Page 2, line 16, delete "the part of the state".

Page 2, delete line 17.

Page 2, line 18, delete "education program offered through the Area 30 Career Center" and insert "**the amount determined under section 5 of this chapter**".

Page 2, between lines 19 and 20, begin a new paragraph and insert:

"**Sec. 5. (a) The department shall determine the amount of a school corporation's obligation to repay state support attributable to the students participating in an alternative education program offered through the Area 30 Career Center that is forgiven and released.**

(b) Each school corporation shall certify to the department the actual expenditures from the school corporation's state support to provide services to the school corporation's students participating in an alternative education program offered through the Area 30 Career Center. The expenditures certified under this subsection may include expenditures for direct and indirect operating costs and overhead costs attributable to the students participating in an alternative education program offered through the Area 30 Career Center.

(c) If the department approves the expenditures certified under subsection (b), the department shall forgive and release the school corporation's obligation to repay state support in an amount equal to the expenditures approved under this subsection.

(d) If the department does not approve the expenditures certified under subsection (b), the department shall revise the amount certified as necessary and shall forgive and release the school corporation's obligation to repay state support in an amount equal to the expenditures approved under this subsection.

Sec. 6. A school corporation must repay the amount of state support attributable to the students participating in an alternative education program offered through the Area 30 Career Center received during the period beginning January 1, 1995, and ending December 31, 1999, that is not forgiven under section 4 of this chapter. The department shall determine a payment plan for each school corporation under section 7 of this chapter.

Sec. 7. A school corporation must repay the amount described in section 6 of this chapter in an installment plan approved by the department beginning July 1, 2001. The final installment of the repayment plan must be paid before July 1, 2005.

Sec. 8. A school corporation may impose an excessive levy under IC 6-1.1-19 in each year of the repayment plan approved under section 7 of this chapter in an amount equal to the annual installment required under the plan.".

Page 2, delete lines 20 through 36.

Renumber all SECTIONS consecutively.

(Reference is to HB 1158 as printed January 20, 2000.)

TURNER

Upon request of Representatives Kruzan and Moses, the Speaker ordered the roll of the House to be called. Roll Call 57: yeas 23, nays 74. Motion failed.

HOUSE MOTION
(Amendment 1158–1)

Mr. Speaker: I move that House Bill 1158 be amended to read as follows:

Page 2, line 18, delete “is” and insert “**may be reduced in whole or part by a written settlement agreement approved by the school corporation and the department.**”

Page 2, delete line 19.

(Reference is to HB1158 as printed January 20, 2000.)

POND

Motion failed. The bill was ordered engrossed.

House Bill 1106

Representative Cheney called down House Bill 1106 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1106–1)

Mr. Speaker: I move that House Bill 1106 be amended to read as follows:

Page 2, line 38, after "(129,000)." insert "**These rules must include the limitation of the use of the compression release engine brakes instead of the service brake system, except in the case of failure of the service brake system.**".

(Reference is to HB 1106 as printed January 20, 2000.)

CHENEY

Motion prevailed. The bill was ordered engrossed.

House Bill 1074

Representative Leuck called down House Bill 1074 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1074–1)

Mr. Speaker: I move that House Bill 1074 be amended to read as follows:

Page 7, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 3. IC 20-8.1-14 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 14. Release of School Records to Courts With Juvenile or Criminal Jurisdiction

Sec. 1. Upon written request, a school shall provide a child's school records to a court having juvenile or criminal jurisdiction over a case involving the child who attends the school if the child:

(1) is alleged to be or has been adjudicated a juvenile delinquent; or

(2) is charged with or convicted of an offense;

in the court that submits the request.

Sec. 2. A court may request the disclosure of school records under section 1 of this chapter only in connection with:

(1) a legitimate investigation;

(2) a prosecution;

(3) a juvenile delinquency adjudication;

(4) a treatment program; or

(5) an educational program.

Sec. 3. Except as provided in this chapter, the disclosure of a child's school records is subject to confidentiality restrictions imposed by state and federal law.

SECTION 4. IC 20-12-76 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 76. Release of School Records to Courts With Juvenile or Criminal Jurisdiction

Sec. 1. Upon written request, an institution of higher learning or a vocational school shall provide a child's school records to a court having juvenile or criminal jurisdiction over a case involving the child who attends the school if the child:

(1) is alleged to be or has been adjudicated a juvenile delinquent; or

(2) is charged with or convicted of an offense;

in the court that submits the request.

Sec. 2. A court may request the disclosure of school records under section 1 of this chapter only in connection with:

(1) a legitimate investigation;

(2) a prosecution;

(3) a juvenile delinquency abjudication;

(4) a treatment program; or

(5) an educational program.

Sec. 3. Except as provided in this chapter, the disclosure of a child's school records is subject to confidentiality restrictions imposed by state and federal law.

SECTION 5. IC 31-37-19-28 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 28. (a) Whenever a court adjudicates a child to be a delinquent child, the court shall notify the principal of any public or nonpublic elementary or secondary school that the child attends of the adjudication and disposition of the case.**

(b) Upon written request of an authorized representative of the school, the court, if the court considers it appropriate, may authorize the attorney for the county office of family and children to give the principal of the school a statement of the facts in the case.

(c) A principal who receives information under subsection (a) or (b):

(1) shall release the information to any employees of the school having responsibility for classroom instruction with the child; and

(2) may release the information to any school administrative, transportation, or counseling personnel and any teacher or school employee with whom the student may come in contact.

However, the information must otherwise remain confidential and may not become part of the child's school records."

Page 10, after line 15 , begin a new paragraph and insert:

"SECTION 7. IC 35-50-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 3.5. Release of Certain Criminal Records of a Child to a School the Child Attends

Sec. 1. Whenever a court convicts a child of an offense, the court shall notify the principal of any public or nonpublic school that the child attends of the child's conviction and sentence for the offense.

Sec. 2. Upon written request of an authorized representative of the school, the court, if the court considers it appropriate, may authorize the prosecuting attorney to give the principal of the school a statement of the facts of the case.

Sec. 3. A principal who receives information under section 1 or 2 of this chapter:

(1) shall release the information to employees of the school having responsibility for classroom instruction with the child; and

(2) may release the information to any school administrative, transportation, or counseling personnel and any teacher or school employee with whom the student may come in contact.

Sec. 4. Information released under this chapter may not become part of the child's school records."

Renumber all SECTIONS consecutively.

(Reference is to HB 1074 as printed January 20, 2000.)

BOSMA

Upon request of Representatives Bosma and Mannweiler, the Speaker ordered the roll of the House to be called. Roll Call 58: yeas 46, nays 49. Motion failed. The bill was ordered engrossed.

House Bill 1030

Representative Stevenson called down House Bill 1030 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1030–1)

Mr. Speaker: I move that House Bill 1030 be amended to read as follows:

Page 1, after line 11 , begin a new paragraph and insert:

"SECTION 2. IC 5-2-10.5-11 IS AMENDED TO READ AS FOLLOWS: Sec. 11. The board may establish training facilities at which the board provides programs. The board shall establish policies and procedures for the use of any training facilities that the board establishes.

In order to encourage firefighter training, the board shall arrange for the utilization of the Wayne Township Fire Training Center of Marion County to the extent feasible."

Renumber all SECTIONS consecutively.

(Reference is to HB1030 as printed January 19, 2000.)

M. YOUNG

Motion prevailed. The bill was ordered engrossed.

House Bill 1008

Representative Ayres called down House Bill 1008 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1008–2)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 27, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 29. IC 36-8-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) The board consists of three (3) commissioners appointed by the town legislative body. The commissioners must be of good moral character and legal residents of the town. Not more than two (2) of the commissioners may be of the same political party. All three (3) commissioners shall be appointed ~~in January following the general or primary election at which the trustees' action is ratified~~ **as specified in the ordinance creating the board.** One (1) commissioner serves for one (1) year, one (1) commissioner serves for two (2) years, and one (1) commissioner serves for three (3) years. On January 1 of each year one (1) commissioner shall be appointed to serve for a term of three (3) years. Each commissioner is subject to removal by the legislative body for any cause that the legislative body considers sufficient.

(b) After the initial appointment of the three (3) commissioners, the town legislative body may, by ordinance, increase the size of the board by providing for the appointment of two (2) additional commissioners. The commissioners must be of good moral character and legal residents of the town. The additional commissioners may not be members of the same political party. Each additional commissioner shall be appointed to serve for a term of three (3) years, however the initial appointment need not be for three (3) years if the town legislative body adopts, by ordinance, a staggered system for the terms of the additional members. The terms of additional members begin January 1 following the date of their appointment. Each commissioner appointed under this subsection is subject to removal by the legislative body for any cause that the legislative body considers sufficient.

(c) Before entering upon his duties, each commissioner shall take and subscribe an oath of office before the clerk of the county in which the town is located. Each commissioner shall also take and subscribe before the clerk the further oath or affirmation that, in each appointment or removal made by the board to or from the town police department under this chapter, he will not appoint or remove a member because of the political affiliation of the person or for another cause or reason other than that of the fitness of the person. The oath and affirmation shall be recorded and placed among the records of the court.

(d) Each commissioner shall give bond in the penal sum of five thousand dollars ($5,000), payable to the state and conditioned upon the faithful and honest discharge of his duties. The bond must be approved by the legislative body.

(e) The salary of the commissioners shall be fixed by the legislative body and is payable monthly out of the treasury of the town.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1008 as printed January 19, 2000.)

AYRES

Motion prevailed.

HOUSE MOTION
(Amendment 1008–5)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 29, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 32. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies to a township having a population of more than six hundred (600) but less than six hundred thirty-five (635) located in a county having a population of more than twelve thousand six hundred (12,600) but less than thirteen thousand (13,000).**

(b) Notwithstanding IC 36-1-8-4, a township may transfer eight thousand two hundred dollars ($8,200) from the township's fire fund to the township's general fund. The township is not required to return the money to the fire fund.

(c) A township may reduce the maximum permissible levy for the township's fire fund under IC 6-1.1-18.5 by four thousand dollars ($4,000). The township may increase the maximum permissible levy for the township's general fund under IC 6-1.1-18.5 by four thousand dollars ($4,000).

(d) This SECTION applies to property taxes first due and payable after December 31, 2000.

(e) This SECTION expires December 31, 2001.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1008 as printed January 19, 2000.)

M. SMITH

HOUSE MOTION

Mr. Speaker: I move that House Bill 1008 be made a special order of business at 3:45 p.m.

BAUER

Motion prevailed.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1122, 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 13, nays 0.

PORTER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1190, 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 12, nays 0.

C. BROWN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1260, 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 everything after the enacting clause and insert the following:

SECTION 1. IC 7.1-2-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. Composition. A local board shall be composed of four (4) members who are qualified for their positions according to this chapter, and who, other than the designated representative of the commission, do not hold other lucrative public office or employment. **However, the designated representative of the commission is not a voting member of the local board.**

SECTION 2. IC 7.1-2-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 16. ~~Quorum and Voting. Three (3)~~ **(a) Two (2) appointed** members of a local board shall constitute a quorum for the transaction of business.

(b) A local board may take action only upon the affirmative votes of at least ~~three (3)~~ **two (2)** of its members.

(c) The designated member may:

(1) not vote on matters before the local board; and

(2) serve the local board as an adviser on matters of law, public record, and public policy as determined by the commission.

SECTION 3. IC 7.1-3-1-25, AS AMENDED BY P.L.205-1999, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 25. (a) A city or county listed in this subsection that by itself or in combination with any other municipal body acquires by ownership or by lease any stadium, exhibition hall, auditorium, theater, convention center, or civic center may permit the retail sale of alcoholic beverages upon the premises if the governing board of the facility first applies for and secures the necessary

permits as required by this title. The cities and counties to which this subsection applies are as follows:

(1) A consolidated city or its county.

(2) A city of the second class.

(3) A county having a population of more than one hundred thirty thousand six hundred (130,600) but less than two hundred thousand (200,000).

(4) A county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(5) A city having a population of less than ten thousand (10,000) that is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(6) A county having a population of more than one hundred eight thousand nine hundred fifty (108,950) but less than one hundred twelve thousand (112,000).

(7) A county having a population of more than one hundred eight thousand (108,000) but less than one hundred eight thousand nine hundred fifty (108,950).

(b) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) or a township located in such a county that has established a public park with a golf course within its jurisdiction under IC 36-10-3 or IC 36-10-7 may be issued a permit for the retail sale of alcoholic beverages on the premises of any community center within the park, including a clubhouse, social center, or pavilion.

(c) A township that:

(1) is located in a county having a population of more than one hundred thousand (100,000) but less than one hundred seven thousand (107,000); and

(2) acquires ownership of a golf course;

may permit the retail sale of alcoholic beverages upon the premises of the golf course, if the governing board of the golf course first applies for and secures the necessary permits required by this title.

(d) A township:

(1) having a population of more than thirty thousand (30,000) and less than seventy-five thousand (75,000); and

(2) located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000);

may be issued a permit for the retail sale of alcoholic beverages on the premises of any community center or social center that is located within the township and operated by the township.

(e) A city that:

(1) has a population of:

(A) more than fifty-eight thousand (58,000) but less than sixty thousand (60,000); or

(B) more than forty thousand (40,000) but less than forty-three thousand (43,000); and

(2) owns a golf course;

may permit the retail sale of alcoholic beverages upon the premises of the golf course if the governing board of the golf course first applies for and secures the necessary permits required by this title.

(f) A city that:

(1) has a population of more than thirty-three thousand eight hundred fifty (33,850) but less than thirty-five thousand (35,000); and

(2) owns or leases a marina;

may permit the retail sale of alcoholic beverages upon the premises of the marina, if the governing board of the marina first applies for and secures the necessary permits required by this title. **The permit may include the carryout sale of alcoholic beverages.**

(g) A city listed in this subsection that owns a marina may be issued a permit for the retail sale of alcoholic beverages on the premises of the marina. **The permit may include the carryout sale of alcoholic beverages.** However, the city must apply for and secure the necessary permits that this title requires. This subsection applies to the following cities:

(1) A city having a population of more than one hundred ten thousand (110,000) but less than one hundred twenty thousand (120,000).

(2) A city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(3) A city having a population of more than thirty-three thousand (33,000) but less than thirty-three thousand eight hundred fifty (33,850).

(4) A city having a population of more than twenty-seven thousand (27,000) but less than thirty thousand (30,000).

(5) A city having a population of more than twenty-one thousand eight hundred thirty (21,830) but less than twenty-three thousand (23,000).

(h) Notwithstanding subsection (a), the commission may issue a civic center permit to a person that:

(1) by the person's self or in combination with another person is the proprietor, as owner or lessee, of an entertainment complex; or

(2) has an agreement with a person described in subdivision (1) to act as a concessionaire for the entertainment complex for the full period for which the permit is to be issued.

SECTION 4. IC 7.1-3-20-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 16. (a) A permit that is authorized by this section may be issued without regard to the quota provisions of IC 7.1-3-22.

(b) The commission may issue a three-way permit to sell alcoholic beverages for on premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant facility in the passenger terminal complex of a publicly owned airport which is served by a scheduled commercial passenger airline certified to enplane and deplane passengers on a scheduled basis by a federal aviation agency. A permit issued under this subsection shall not be transferred to a location off the airport premises.

(c) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a redevelopment project consisting of a building or group of buildings that:

(1) was formerly used as part of a union railway station;

(2) has been listed in or is within a district that has been listed in the federal National Register of Historic Places maintained pursuant to the National Historic Preservation Act of 1966, as amended; and

(3) has been redeveloped or renovated, with the redevelopment or renovation being funded in part with grants from the federal, state, or local government.

A permit issued under this subsection shall not be transferred to a location outside of the redevelopment project.

(d) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant:

(1) on land; or

(2) in a historic river vessel;

within a municipal riverfront development project funded in part with state and city money. A permit issued under this subsection may not be transferred.

(e) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a renovation project consisting of a building that:

(1) was formerly used as part of a passenger and freight railway station; and

(2) was built before 1900.

The permit authorized by this subsection may be issued without regard to the proximity provisions of IC 7.1-3-21-11.

(f) The commission may issue a three-way permit for the sale of alcoholic beverages for on premises consumption at a cultural center for the visual and performing arts to a town that:

(1) is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and

(2) has a population of more than nineteen thousand nine hundred forty (19,940) but less than twenty-one thousand five hundred (21,500).

(g) This subsection applies only to a city having a population of more than twenty-four thousand (24,000) but less than twenty-four thousand three hundred (24,300). The commission may issue a three-way permit for the sale of alcoholic beverages to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant and who proves to the local board and the commission that the restaurant meets the following additional requirements:

(1) The restaurant is a table service restaurant in which a patron is seated at a table and served by a waiter or waitress and the food served is predominantly consumed on the premises.

(2) The restaurant is sufficiently served by adequate law enforcement at the premises.

(3) If the restaurant has been in operation for at least three (3) years, the restaurant has had gross food sales of at least one hundred thousand dollars ($100,000) in each of the three (3) years immediately preceding the application for a permit.

(4) If the restaurant has been in operation for more than ninety (90) days but less than three (3) years, a projection of the restaurant's actual experience in gross food sales for the most recent ninety (90) days shows that gross food sales will exceed a total of two hundred thousand dollars ($200,000) at the end of two (2) years after the date of the application.

(5) If the restaurant is a new restaurant that has not been in operation, the applicant executes a verified certification to the commission stating that the applicant expects gross food sales at the location to exceed a total of two hundred thousand dollars ($200,000) during the first two (2) years of operation. However, the following apply to a permit issued under this subdivision:

(A) Not more than one hundred twenty (120) days after the opening of the new restaurant, the permittee must furnish to the commission a financial statement showing actual gross food sales at the restaurant during the first ninety (90) days of operation. The commission may require this financial statement to be audited by a certified public accountant.

(B) The commission may revoke the permit if a projection of the actual experience in gross food sales shown on the financial statement filed under clause (A) shows that gross food sales at the location will not exceed a total of two hundred thousand dollars ($200,000) during the first two (2) years of operation.

SECTION 5. IC 7.1-3-20-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) This section does not affect the requirements necessary to obtain a permit to sell alcoholic beverages on the premises of a licensed premises.

(b) The commission may designate a licensed permit premises used exclusively for catered events as a catering hall.

(c) Catering halls designated under this section are not required to be open to the general public. However, if a designated catering hall desires to host an event that is open to the general public, the catering hall shall comply with the notice requirement under IC 7.1-3-9.5-2.

(d) **The commission may issue a three-way permit to an applicant to sell alcoholic beverages for on premises consumption on premises used for catered events as a catering hall that has accommodations for at least two hundred fifty (250) individuals.**

(e) A permit authorized by this section may be issued without regard to the quota provisions of IC 7.1-3-22.

(f) The commission shall adopt rules under IC 4-22-2 to implement this section.

SECTION 6. **An emergency is declared for this act.**

(Reference is to HB 1260 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yes 8, nays 4.

KUZMAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1283, 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: yes 12, nays 0.

PORTER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1295, 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: yes 9, nays 0.

DVORAK, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1300, 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: yes 7, nays 4.

PORTER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1305, 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: yes 10, nays 0.

DVORAK, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1312, 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 tobacco and to make an appropriation.

Delete everything after the enacting clause and insert:

SECTION 1. IC 4-4-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 9.5. Indiana Rural Development Council

Sec. 1. As used in this chapter, "council" refers to the Indiana Rural Development Council established by the 1993 memorandum of understanding between Indiana and the United States Department of Agriculture.

Sec. 2. With the approval of the governing board of the council, the council may use not more than two hundred fifty thousand dollars ($250,000) each year to provide funding for the Southern Indiana Rural Development Project, Inc. for rural development programs.

Sec. 3. (a) There is appropriated to the council from interest earned on money in the tobacco settlement fund three hundred thousand dollars ($300,000) beginning July 1, 2000, and ending June 30, 2005, to carry out the purposes of this chapter.

(b) This SECTION expires July 1, 2005.

SECTION 2. IC 4-4-30 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 30. Rural Community Impact Fund

Sec. 1. As used in this chapter, "fund" refers to the rural

community impact fund established by section 2 of this chapter.

Sec. 2. (a) The rural community impact fund is established. The fund shall be administered by the commissioner of agriculture and the department of commerce.

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

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligation 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.

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

Sec. 3. (a) Money in the fund shall be used for the following purposes:

(1) To develop new agricultural enterprises in areas that were used for tobacco production, including facilities for research and development, new market opportunities, educational programs, leadership developmental programs, and direct financial assistance.

(2) Assistance to rural communities that suffer a negative economic impact from the loss of tobacco production.

(b) The commissioner of agriculture shall approve money for projects under subsection (a)(1).

(c) The department of commerce shall approve money for projects under subsection (a)(2).

Sec. 4. (a) The fund consists of interest earned on money in the tobacco settlement fund and transferred to the fund as follows:

(1) On July 1, 2000, eight million two hundred thousand dollars ($8, 200,000).

(2) On July 1, 2001, three million seven hundred thousand dollars ($3,700,000).

(3) On July 1, 2002, three million seven hundred thousand dollars ($3,700,000).

(4) On July 1, 2003, three million seven hundred thousand dollars ($3,700,000).

(5) On July 1, 2004, three million seven hundred thousand dollars ($3,700,000).

(6) On July 1, 2005, three million seven hundred thousand dollars ($3,700,000).

(b) Money transferred under subsection (a) is appropriated to the fund.

(c) This section expires July 1, 2005.

SECTION 3. IC 4-12-1-14.3, AS ADDED BY P.L.273-1999, SECTION 232, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 14.3. **(a) As used in this section, "advisory council" refers to the tobacco fund executive advisory council established under subsection (d).**

(b) As used in this section, "master settlement agreement" has the meaning set forth in IC 24-3-3-6.

(c) There is hereby created the tobacco settlement fund for the purpose of depositing money received by the state from the master settlement agreement. ~~with the United States' tobacco product manufacturers.~~ The fund shall be administered by the budget agency. 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 is invested. **Except as provided in IC 4-4-9.5-3 and IC 4-4-30-4,** interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of the state fiscal year does not revert to the state general fund.

(d) The tobacco fund executive advisory council is established. The advisory council consists of the following members:

(1) The commissioner of the state department of health.

(2) The secretary of family and social services.

(3) The insurance commissioner.

(4) The state superintendent of public instruction.

(5) The attorney general.

(6) A youth member of the commission for a drug free Indiana selected by the governor.

(7) A member of the enhanced health planning advisory committee established by IC 16-46-12-2 selected by the governor.

(8) A member of the tobacco control advisory committee established by IC 16-46-12-3 selected by the governor.

(9) A member of the Indiana Minority Health Coalition selected by the governor.

(10) A member of the Indiana commission for women selected by the governor.

(11) A local health officer selected by the governor.

(12) A representative of a senior citizens organization selected by the governor.

(13) A representative of a disability organization, appointed by the governor.

(14) A representative of the Indiana Chapter of the National Medical Association, appointed by the governor.

(15) A member of the Native American Council, appointed by the governor.

The governor shall designate a member to serve as chairperson. A vacancy with respect to a member shall be filled in the same manner as the original appointment. The advisory council shall annually elect one (1) of its members as vice chairperson. Each member is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties. The state department of health shall provide staff for the advisory council. The advisory council is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3. The advisory council is a governing body for purposes of IC 5-14-1.5.

(e) A quorum consists of a majority of the voting members appointed to the council. Approval of a program requires approval by a majority of the voting member appointed to the council. The advisory council shall review all programs recommended by the:

(1) enhanced health planning advisory committee established by IC 16-46-12-2;

(2) tobacco control advisory committee established by IC 16-46-12-3; and

(3) prescription drug advisory committee established by IC 16-46-12-7.

The advisory council may reject, approve, or modify and then approve any recommended program. A program approved by the advisory council shall be recommended to the budget committee. The budget committee shall review and may approve only those programs that further the purposes of IC 16-46-12.

(f) The advisory council shall prepare an annual financial report and an annual report concerning the advisory council's activities under this section. The reports shall be transmitted to the governor and the health finance commission.

(g) The expenses of the following shall be paid from the tobacco settlement fund:

(1) The tobacco fund executive advisory council established by subsection (d).

(2) The enhanced health planning advisory committee established by IC 16-46-12-2.

(3) The tobacco control advisory committee established by IC 16-46-12-3.

(4) The prescription drug advisory committee established by IC 16-46-12-7.

(h) The office of the secretary of family and social services and the office of Medicaid policy and planning shall enter into a contract with a health insurance company to administer a prescription drug program approved under subsection (e).

SECTION 4. IC 6-7-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) The department is the official agent of the state for the administration and enforcement of this chapter. A sufficient sum to pay salaries and expenses is appropriated to the department out of the monies received by virtue of this chapter.

(b) The department may issue registration certificates, upon the terms and conditions provided in this chapter, and may revoke or suspend the ~~same~~ **registration certificate** upon the violation of:

(1) this chapter;

(2) IC 24-3-2; or

(3) IC 24-3-4;

by the holder of ~~such a~~ **the registration** certificate.

(c) The department may apply for membership in the National Tobacco Tax Association.

(d) The department may design and have printed or manufactured stamps of sizes and denominations to be affixed to each individual package. The stamps shall be firmly affixed on each individual package in such a manner that the stamps can not be removed without being mutilated or destroyed; however, the department may by regulation designate some other manner for cancelation of stamps. In addition to the stamps, the department may by rules and regulations authorize distributors to use metered stamping machines or other devices which will imprint distinctive indicia evidencing the payment of the tax upon each individual package. The machines shall be constructed in such a manner as will accurately record or meter the number of impressions or tax stamps made. The tax meter machines or other devices shall be kept available at all reasonable times for inspection by the department, and the machines shall be maintained in proper operating condition. A person who knowingly tampers with the printing or recording mechanism of such a machine commits a Class B misdemeanor.

SECTION 5. IC 16-46-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) Except as provided in subsections (b) and (d), the state department shall provide funding each year from the local health maintenance fund under the following schedule to each local board of health whose application for funding is approved by the state department:

COUNTY POPULATION		AMOUNT OF GRANT
over -	499,999	$ ~~60,000~~ **120,000**
100,000 =	499,999	~~50,000~~ **100,000**
50,000 =	99,999	~~30,000~~ **60,000**
under =	50,000	~~20,000~~ **40,000**

(b) For purposes of determining the amount of a grant to a multiple county board of health, the state department shall regard each county of the multiple county health department as a separate county. A grant to a multiple county board of health must equal the total of grants that would be made to the separate counties based on the population of each county.

(c) A local board of health that desires to receive funding from the local health maintenance fund must file an application with the state department before May 1 of each year. The application must state how the funds will be spent. The state department may extend the deadline for filing an application upon a showing of good cause by the local board of health.

(d) If a county has more than one (1) local health department, the county fiscal body shall adopt an ordinance to allocate the funds provided to the county under subsection (a). This ordinance must provide that each local board of health in the county must receive an allocation of funds granted under subsection (a). The county fiscal body shall file a copy of the ordinance with the state department before May 1 of each year.

(e) By June 1 of each year, the state department shall:

(1) allocate money in the local health maintenance fund (for distribution the following January) to each local board of health whose application is approved in accordance with the schedule in subsection (a); and

(2) determine how much money in the local health maintenance fund has not been applied for.

The state department may use the money that has not been applied for or otherwise allocated to fund joint plans entered into by two (2) or more local boards of health or by a multiple county board as provided in subsections (g) and (i).

(f) If two (2) or more local boards of health cooperate in providing any of the services set out in section 3 of this chapter, those boards of health shall file a joint plan that must be approved by the state department. The joint plan must specify the following:

(1) The services to be provided under the plan.

(2) The cost of each service to be provided under the plan.

(3) The percentage of the total cost of services to be provided under the joint plan by each local board of health.

(g) If two (2) or more local boards of health join together to provide services in accordance with a joint plan filed with the state department of health under subsection (f), and the state department determines that the services to be provided under the joint plan are eligible for funding from the local health maintenance fund, the state department shall grant (in addition to the funds provided to each county in which the local boards of health are located under subsection (a)) an amount not to exceed fifteen thousand dollars ($15,000) to fund the joint plan. The state department shall grant money to fund joint plans that most effectively accomplish the following goals in accordance with standards adopted by the state department:

(1) Benefit the greatest number of people.

(2) Provide services in a cost effective manner.

(3) Address the most serious health care needs of the area served.

(4) Provide additional public health services in a medically underserved or economically distressed area.

This money shall be allocated directly to each local board of health participating in the joint plan in the same percentages specified in the joint plan under subsection (f)(3).

(h) A multiple county health board may file a plan under this section to provide any of the services set out in section 3 of this chapter. If the state department determines that the services to be provided under the plan submitted by a multiple county health board are eligible for funding from the local health maintenance fund, the state department shall grant (in addition to the funds provided under subsection (a) to each county in which the local boards of health are located) an amount not to exceed fifteen thousand dollars ($15,000) to fund the plan.

(i) Services funded under this section must be in addition to, and not in place of, services funded at the local level.

SECTION 6. IC 16-46-12 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 12. Tobacco Settlement Fund Programs

Sec. 1. The tobacco settlement programs to be funded under this chapter must be designed to achieve one (1) or more of the following goals:

(1) Prevention, intervention, and reduction of tobacco use, especially among children and youth and smoking cessation programs offered by local health departments that use a combination of classes and treatment for nicotine addiction.

(2) Provide better access to quality health care, including mental health and addictions treatment.

(3) Increase the availability of quality health care in underserved geographic areas and for low income individuals.

(4) Research treatments and cures for tobacco related diseases.

(5) Address the special health care needs of those who suffer most from tobacco related diseases, including end of life and long term care alternatives.

(6) Eliminate health disparities for ethnic racial minorities.

Sec. 2. (a) The enhanced health planning advisory committee is established. The committee consists of appointees by the governor who represent the following organizations or interests:

(1) One (1) consumer of community health services.

(2) The Indiana Dental Association.

(3) The Indiana Hospital Association.

(4) The Indiana Minority Health Coalition.

(5) The Indiana Pediatric Association.

(6) The Indiana State Medical Association.

(7) The Indiana State Nurses Association.

(8) The Indiana University School of Medicine.

(9) A local health officer.

(10) A primary health care organization.

(11) A rural health organization.

(12) A senior citizens organization.

(13) The Indiana chapter of the National Medical Association.

(14) The Indiana Council of Community Mental Health Centers.

(15) A consumer or representative of an end of life care organization, an alternative to long term care services, or a disability organization.

(b) The members of the enhanced health planning advisory committee serve at the pleasure of the governor. The term of each member is two (2) years. Not more than eight (8) members of the enhanced health planning advisory committee may be from the same political party.

(c) The governor may reappoint a sitting member.

(d) A vacancy with respect to a member shall be filled in the same manner as the original appointment.

(e) The governor shall designate a member to serve as chairperson. The board shall annually elect one (1) of its members as vice chairperson.

(f) Each member is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties.

(g) The state department of health shall provide the staff for the enhanced health planning advisory committee.

(h) The enhanced health planning advisory committee is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3.

(i) The enhanced health planning advisory committee is a governing body for purposes of IC 5-14-1.5.

Sec. 3. (a) The tobacco control advisory committee is established.

(b) The voting members of the tobacco control advisory committee consist of appointees by the governor who represent the following organizations or interests:

(1) The Indiana Chapter of the American Cancer Society.
(2) The Indiana Chapter of the American Heart Association.
(3) The Indiana Chapter of the American Lung Association.
(4) The Indiana Dental Association.
(5) The state excise police within the Indiana alcoholic beverage commission.
(6) The Indiana Minority Health Coalition.
(7) The Indiana State Medical Association.
(8) The Indiana State Mental Health Association.
(9) An individual doing tobacco disease research.
(10) A local health officer.
(11) A senior citizens organization.
(12) A representative of a tobacco free youth organization.
(13) The Indiana Chapter of the National Medical Association.
(14) The Indiana Council of Community Mental Health Centers.
(15) The Indiana Pharmacists Alliance.

(c) The nonvoting members of the tobacco control advisory committee consist of appointees by the governor who represent the following organizations:

(1) The division of mental health.
(2) The Governor's Commission for a Drug-Free Indiana.
(3) The office of tobacco control within the state department of health.
(4) The department of education.

(d) The members of the tobacco control advisory committee serve at the pleasure of the governor. The term of each member is two (2) years. Not more than eight (8) voting members of the tobacco control advisory committee may be from the same political party.

(e) The governor may reappoint a sitting member.

(f) A vacancy with respect to a member shall be filled in the same manner as the original appointment.

(g) The governor shall designate a member to serve as chairperson. The committee shall annually elect one (1) of its members vice chairperson.

(h) Each member is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties.

(i) The state department of health shall provide the staff for the tobacco control advisory committee.

(j) The tobacco control advisory committee is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3.

(k) The tobacco control advisory committee is a governing body for purposes of IC 5-14-1.5.

Sec. 4. The enhanced health planning advisory committee shall study health needs of the population and recommend to the tobacco fund executive advisory council established by IC 4-12-1-14.3 goals and programs that:

(1) promote health and wellness activities, including mental health and addictions;
(2) encourage the prevention of disease, particularly tobacco related diseases;
(3) address alternative services to meet the health care of seniors;
(4) address minority health disparities;
(5) address the impact of tobacco related diseases, particularly on minorities;
(6) promote community based health care, particularly in areas with a high percentage of uninsured and under insured citizens, including individuals with disabilities, or with a shortage of health care professionals;
(7) enhance local health department services; and
(8) expand community based minority health infrastructure.

Sec. 5. The tobacco control advisory committee shall recommend to the tobacco fund executive advisory council established by IC 4-12-1-14.3 programs that do the following:

(1) Provide screening and counseling for tobacco users.
(2) Emphasize the prevention and reduction of tobacco use by minorities, pregnant women, children, and youth.
(3) Provide smoking cessation.
(4) Produce and distribute information concerning the dangers of tobacco use.
(5) Provide research on issues related to reduction of tobacco use, especially chronic diseases, including mental illness and addictive disorders, common to tobacco users.
(6) Enforce Indiana tobacco use laws.
(7) Educate the public about the harms of tobacco use.
(8) Provide research and information needed to assess programs.
(9) Develop a minority health epidemiology center to collect minority-specific health data through research and clinical trials.
(10) Assess attitudes, beliefs, and behaviors of minority populations.
(11) Assess the impact of cultural, social, economic, religion, environmental, and psycho-social factors on health outcomes for minorities.

Sec. 6. (a) A public or private entity or an individual may submit an application to the enhanced health planning advisory committee, the tobacco control advisory committee, or the prescription drug advisory committee for program funding from the tobacco settlement fund. Each application must be in writing and contain the following information:

(1) A clear objective to be achieved with the program.
(2) A plan for implementation of the program.
(3) A statement of the manner in which the proposed program will further the goals of the enhanced health planning advisory committee, tobacco control advisory committee, the tobacco control advisory committee, or the prescription drug advisory committee.
(4) The amount of funding requested.
(5) An evaluation and assessment component to determine the program's performance.
(6) Any other information required by the enhanced health planning advisory committee, the tobacco control advisory committee, the tobacco control advisory committee, or the prescription drug advisory committee.

The enhanced health planning advisory committee, the tobacco control advisory committee, the tobacco control advisory committee, and the prescription drug advisory committee may each adopt written guidelines to establish procedures, forms, additional evaluation criteria, and application deadlines for programs.

(b) The approval by a majority of the voting members appointed to serve on a specific committee are required for approval of a program by the enhanced health planning advisory committee, the tobacco control advisory committee, the tobacco control advisory committee, or the prescription drug advisory committee.

Sec. 7. (a) The prescription drug advisory committee is

established to recommend to the tobacco fund executive advisory council established by IC 4-12-1-14.3 programs that address the pharmaceutical costs of low income elderly and disabled individuals.

(b) The prescription drug advisory committee consists of seven (7) members appointed by the governor who have knowledge, skill, and expertise in health planning and the impact of pharmaceutical costs on low income elderly and disabled individuals. The term of each member is two (2) years. The committee must include the following members:

(1) A pharmacoeconomist.

(2) A health economist.

(3) A medical actuary with expertise in prescription drug benefits.

(4) A pharmaceutical researcher.

(5) A physician with a specialty in geriatrics.

(6) A health planner or health finance person with expertise in health programs for the elderly.

(7) A senior citizen consumer with knowledge in health planning and the impact of pharmaceutical costs on low income elderly individuals.

(c) The office of family and social services shall provide staff for the prescription drug advisory committee.

(d) The prescription drug advisory committee is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3.

(e) The prescription drug advisory committee is a governing body for purposes of IC 5-14-1.5.

(f) Each member of the committee is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties. The expenses of the committee shall be paid from the tobacco settlement fund created by IC 14-12-1-14.3.

SECTION 7. IC 24-3-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. **(a)** In establishing the cost of cigarettes to the retailer or distributor, the invoice cost of said cigarettes purchased at a forced, bankrupt, or close-out sale, or other sale outside of the ordinary channels of trade, may not be used as a basis for justifying a price lower than one based upon the replacement cost of the cigarettes to the retailer or distributor, within thirty (30) days prior to the date of sale, in the quantity last purchased, through the ordinary channels of trade.

(b) Any cigarettes that are imported or reimported into the United States for sale or distribution under a trade name, trade dress, or trademark that is the same as or confusingly similar to a trade name, trade dress, or trademark used for cigarettes manufactured in the United States for sale or distribution in the United States are presumed to be purchased outside the ordinary channels of trade.

SECTION 8. IC 24-3-4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 4. Cigarettes Produced for Export; Imported Cigarettes

Sec. 1. This chapter does not apply to cigarettes sold or intended to be sold as duty free merchandise by a duty free sales enterprise that complies with federal requirements, including the requirements under 19 U.S.C. 1555(b). However, this chapter applies to cigarettes that are brought back into the United States that have not been assessed a federal tax or federal duty.

Sec. 2. As used in this chapter, "cigarette" has the meaning set forth in IC 24-3-2-2(a).

Sec. 3. As used in this chapter, "department" refers to the department of state revenue.

Sec. 4. As used in this chapter, "importer" means any of the following:

(1) A person in the United States to whom nontaxpaid tobacco products, cigarette papers, or cigarette tubes manufactured in a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States are shipped or consigned.

(2) A person who removes cigars or cigarettes for sale or consumption in the United States from a customs bonded manufacturing warehouse.

(3) A person who smuggles or unlawfully brings tobacco products, cigarette papers, or cigarette tubes into the United States.

Sec. 5. As used in this chapter, "law enforcement officer" has the meaning set forth in IC 35-41-1-17.

Sec. 6. As used in this chapter, "manufacturer" means a person who manufactures a product made from tobacco that is made for smoking or chewing, including snuff. However, the term does not include the following:

(1) A person who produces a product made from tobacco that is made for smoking or chewing, including snuff, solely for the person's own personal consumption or use.

(2) A proprietor of a customs bonded manufacturing warehouse with respect to the operation of the warehouse.

Sec. 7. As used in this chapter, "person" has the meaning set forth in IC 24-3-2-2(b).

Sec. 8. As of July 1, 2000, a person may not sell, distribute, possess, or transport into Indiana any of the following cigarettes:

(1) Cigarettes that have been marked for sale, distribution, or use outside the United States, including labels stating "For Export Only", "U.S. Tax-Exempt", and "For Use Outside U.S.".

(2) Cigarettes that do not comply with the federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) or with other federal requirements regarding health warnings and other information on cigarette packages manufactured, packaged, or imported for sale, distribution, or use in the United States.

(3) Cigarettes that do not comply with federal trademark and copyright laws.

(4) Cigarettes that violate federal requirements on importation of previously exported tobacco products, including 26 U.S.C. 5754.

(5) Cigarettes that the person knows or has reason to know that the manufacturer did not intend to be sold, distributed, or used in the United States.

(6) Cigarettes that have not had the list of the cigarette's added ingredients submitted to the Secretary of the Department of Health and Human Services under 15 U.S.C. 1335a.

(7) Cigarettes that have had the package altered before the cigarettes are sold or distributed to the consumer that remove, conceal, or obscure any of the following:

(A) A marking that indicates the cigarettes are intended to be sold, distributed, or used outside the United States.

(B) A health warning or other information required under 15 U.S.C. 1333.

Sec. 9. A person may not affix a stamp (as defined by IC 6-7-1-9) on a package of cigarettes described in section 8 of this chapter.

Sec. 10. (a) A person who, for the purpose of selling or distributing the cigarettes in Indiana, imports cigarettes into Indiana that were manufactured outside the United States, shall file a monthly report with the department and keep and maintain the records required under IC 6-7-1-19 and IC 6-7-1-19.5.

(b) The report required under subsection (a) must be signed by the person who imports the cigarettes, under penalties of perjury, and must contain the following information concerning cigarettes that the person imported during the preceding month:

(1) A copy of each of the following:

(A) The permit issued under 26 U.S.C. 5713 that allows the person to import the cigarettes into the United States.

(B) The U.S. Customs Service form concerning the cigarettes that contains the internal revenue tax information required by the federal Bureau of Alcohol, Tobacco, and Firearms.

(2) A statement that includes the following information:

(A) The brand and brand styles of the cigarettes imported.

(B) The quantity of each brand style of the cigarettes imported.

(C) The name and address of each person to whom the cigarettes have been shipped.

(3) A statement signed by an officer of the manufacturer or importer, under the penalties for perjury, that states whether the manufacturer is a participant in the escrow fund under IC 24-3-3-12 and certifies that the manufacturer or importer has complied with the following:

(A) The federal cigarette package health warning requirements (15 U.S.C. 1333) and the federal ingredient reporting requirements (15 U.S.C. 1335a).

(B) The qualified escrow fund for tobacco product manufacturers requirements under IC 24-3-3.

Sec. 11. The department may do the following:

(1) Adopt rules under IC 4-22-2 to implement this chapter.

(2) Assess tax due, penalties, and interest on cigarettes in violation of this chapter.

(3) Revoke or suspend the registration certificate issued under IC 6-7-1-16 of a person who violates this chapter.

Sec. 12. (a) If the department or a law enforcement officer discovers cigarettes that are in violation of section 8 or 9 of this chapter, the department or a law enforcement officer may seize and take possession of the cigarettes together with any vending machine or receptacle in which the cigarettes are held for sale. The seized cigarettes, vending machine, or receptacle, not including money contained in the vending machine or receptacle, shall be forfeited to the state. The department or law enforcement agency shall, within a reasonable time after the seizure, destroy the confiscated cigarettes and vending machine or receptacle.

(b) The confiscation, destruction, sale, or redemption of cigarettes does not relieve a person of any penalties imposed for violation of this chapter.

(c) When the department has reason to believe that any cigarettes are being kept, sold, offered for sale, or given away in violation of this chapter, an officer of the department or a law enforcement officer may make an affidavit for a search warrant under IC 35-33-5. If the judge issues a search warrant under IC 35-33-1, a law enforcement officer or an authorized agent of the department may search any place or vehicle designated in the affidavit and search warrant and seize any cigarettes.

Sec. 13. (a) This chapter may be enforced by the department or a law enforcement officer.

(b) Upon referral of a violation of this chapter by the department or a law enforcement officer, the prosecuting attorney or the attorney general shall prosecute the person who violates this chapter.

Sec. 14. In addition to any other remedy, any person may bring an action for appropriate injunctive or equitable relief for a violation of this chapter that caused actual damages to the person. The person who brings the action may recover actual damages, interest on the damages from the date the complaint was filed, costs, and reasonable attorney's fees. If the court finds that the violation was flagrant, the court may increase the recovery to an amount not exceeding three (3) times the amount of actual damages.

Sec. 15. A person who knowingly or intentionally possesses, sells, distributes, or transports into Indiana cigarettes in violation of section 8 of this chapter commits a Class A misdemeanor.

Sec. 16. A person who knowingly or intentionally possesses, sells, or distributes cigarettes that bear Indiana tax stamps affixed in violation of this chapter commits a Class A misdemeanor.

Sec. 17. A person who:

(1) knowingly possesses, sells, distributes, or transports more than twelve thousand (12,000) cigarettes in violation of section 8 or 9 of this chapter; and

(2) has previously been convicted of an offense under section 8 or 9 of this chapter;

commits a Class D felony.

SECTION 9. IC 24-5-0.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The following acts or representations as to the subject matter of a consumer transaction, made either orally or in writing by a supplier, are deceptive acts:

(1) That such subject of a consumer transaction has sponsorship, approval, performance, characteristics, accessories, uses, or benefits it does not have which the supplier knows or should reasonably know it does not have.

(2) That such subject of a consumer transaction is of a particular standard, quality, grade, style, or model, if it is not and if the supplier knows or should reasonably know that it is not.

(3) That such subject of a consumer transaction is new or unused, if it is not and if the supplier knows or should reasonably know that it is not.

(4) That such subject of a consumer transaction will be supplied to the public in greater quantity than the supplier intends or reasonably expects.

(5) That replacement or repair constituting the subject of a consumer transaction is needed, if it is not and if the supplier knows or should reasonably know that it is not.

(6) That a specific price advantage exists as to such subject of a consumer transaction, if it does not and if the supplier knows or should reasonably know that it does not.

(7) That the supplier has a sponsorship, approval, or affiliation in such consumer transaction he does not have, and which the supplier knows or should reasonably know that he does not have.

(8) That such consumer transaction involves or does not involve a warranty, a disclaimer of warranties, or other rights, remedies, or obligations, if the representation is false and if the supplier knows or should reasonably know that the representation is false.

(9) That the consumer will receive a rebate, discount, or other benefit as an inducement for entering into a sale or lease in return for giving the supplier the names of prospective consumers or otherwise helping the supplier to enter into other consumer transactions, if earning the benefit, rebate, or discount is contingent upon the occurrence of an event subsequent to the time the consumer agrees to the purchase or lease.

(10) That the supplier is able to deliver or complete the subject of the consumer transaction within a stated period of time, when the supplier knows or should reasonably know he could not. If no time period has been stated by the supplier, there is a presumption that the supplier has represented that he will deliver or complete the subject of the consumer transaction within a reasonable time, according to the course of dealing or the usage of the trade.

(11) That the consumer will be able to purchase the subject of the consumer transaction as advertised by the supplier, if the supplier does not intend to sell it.

(12) That the replacement or repair constituting the subject of a consumer transaction can be made by the supplier for the estimate the supplier gives a customer for the replacement or repair, if the specified work is completed and:

(A) the cost exceeds the estimate by an amount equal to or greater than ten percent (10%) of the estimate;

(B) the supplier did not obtain written permission from the customer to authorize the supplier to complete the work even if the cost would exceed the amounts specified in clause (A);

(C) the total cost for services and parts for a single transaction is more than seven hundred fifty dollars ($750); and

(D) the supplier knew or reasonably should have known that the cost would exceed the estimate in the amounts specified in clause (A).

(13) That the replacement or repair constituting the subject of a consumer transaction is needed, and that the supplier disposes of the part repaired or replaced earlier than seventy-two (72) hours after both:

(A) the customer has been notified that the work has been completed; and

(B) the part repaired or replaced has been made available for examination upon the request of the customer.

(14) Engaging in the replacement or repair of the subject of a consumer transaction if the consumer has not authorized the replacement or repair, and if the supplier knows or should reasonably know that it is not authorized.

(15) The act of misrepresenting the geographic location of the supplier by listing a fictitious business name or an assumed business name (as described in IC 23-15-1) in a local telephone directory if:

(A) the name misrepresents the supplier's geographic location;

(B) the listing fails to identify the locality and state of the supplier's business;

(C) calls to the local telephone number are routinely forwarded or otherwise transferred to a supplier's business location that is outside the calling area covered by the local telephone directory; and

(D) the supplier's business location is located in a county that is not contiguous to a county in the calling area covered by the local telephone directory.

(16) The act of listing a fictitious business name or assumed business name (as described in IC 23-15-1) in a directory assistance database if:

(A) the name misrepresents the supplier's geographic location;

(B) calls to the local telephone number are routinely forwarded or otherwise transferred to a supplier's business location that is outside the local calling area; and

(C) the supplier's business location is located in a county that is not contiguous to a county in the local calling area.

(17) That the supplier violated IC 24-3-4 concerning cigarettes for import or export.

(b) Any representations on or within a product or its packaging or in advertising or promotional materials which would constitute a deceptive act shall be the deceptive act both of the supplier who places such representation thereon or therein, or who authored such materials, and such other suppliers who shall state orally or in writing that such representation is true if such other supplier shall know or have reason to know that such representation was false.

(c) If a supplier shows by a preponderance of the evidence that an act resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error, such act shall not be deceptive within the meaning of this chapter.

(d) It shall be a defense to any action brought under this chapter that the representation constituting an alleged deceptive act was one made in good faith by the supplier without knowledge of its falsity and in reliance upon the oral or written representations of the manufacturer, the person from whom the supplier acquired the product, any testing organization, or any other person provided that the source thereof is disclosed to the consumer.

(e) For purposes of subsection (a)(12), a supplier that provides estimates before performing repair or replacement work for a customer shall give the customer a written estimate itemizing as closely as possible the price for labor and parts necessary for the specific job before commencing the work.

(f) For purposes of subsection (a)(15), a telephone company or other provider of a telephone directory or directory assistance service or its officer or agent is immune from liability for publishing the listing of a fictitious business name or assumed business name of a supplier in its directory or directory assistance database unless the telephone company or other provider of a telephone directory or directory assistance service is the same person as the supplier who has committed the deceptive act.

SECTION 10. [EFFECTIVE JULY 1, 2000] **(a) The following amounts are appropriated from the tobacco settlement fund established by IC 4-12-1-14.3, as amended by this act, to the budget agency to cover total operating expenses incurred in carrying out the purposes of IC 16-46-12, as added by this act, for the period beginning July 1, 2000, and ending June 30, 2001:**

(1) Thirty million dollars ($30,000,000) for tobacco education, prevention, and use control, with emphasis on mental health addictions treatment and intervention programs. However, two million five hundred thousand dollars ($2,500,000) must be used to fund minority organizations, agencies, and businesses to implement minority prevention and intervention programs.

(2) Twenty million dollars ($20,000,000) for pharmaceutical assistance.

(3) Nine million five hundred thousand dollars ($9,500,000) for other programs approved by the tobacco fund executive advisory council under IC 4-12-1-14.3, as amended by this act.

(b) Fifteen million dollars ($15,000,000) is appropriated from the tobacco settlement fund established by IC 4-12-1-14.3, as amended by this act, to the state department of health for total operating expenses for community health centers for the period beginning July 1, 2000, and ending June 30, 2001.

(c) Five million dollars ($5,000,000) shall be transferred from the tobacco settlement fund established by IC 4-12-1-14.3, as amended by this act, to the Indiana twenty-first century research and technology fund (IC 4-4-5.1), and is appropriated to pay for research on tobacco related diseases for the period beginning July 1, 2000, and ending June 30, 2001.

(d) Ten million dollars ($10,000,000) is appropriated from the tobacco settlement fund established by IC 4-12-1-14.3, as amended by this act, as follows:

(1) To the budget agency, four million six hundred twenty-five thousand dollars ($4, 625,000) to cover capital costs for the period beginning July 1, 2000, and ending June 30, 2002, for community health centers to carry out programs approved by the tobacco fund executive advisory council under IC 4-12-1-14.3, as amended by this act.

(2) To the state department of health, two million three hundred seventy-five thousand dollars ($2,375,000) to expand local minority health coalitions.

(3) To the Indiana minority health coalition and Martin University three million dollars ($3,000,000) to establish a minority epidemiology resource center.

(e) In addition to the money appropriated under IC 6-7-1-30.5 and under P.L.273-1999, SECTION 8, two million five hundred thousand dollars ($2,500,000) shall be transferred from the tobacco settlement fund established by IC 4-12-1-14.3, as amended by this act, to the local health maintenance fund established by IC 16-46-10-1 and is appropriated for total operating expenses of the local health maintenance fund beginning July 1, 2000, and ending June 30, 2001.

(f) Five million dollars ($5,000,000) is appropriated from the tobacco settlement fund established by IC 4-12-1-14.3, as amended by this act, to the division of mental health for the purpose of funding a special program for prevention, intervention, and reduction of tobacco use by seriously emotionally disturbed children who are enrolled in the division's Hoosier assurance plan. All providers who participate in the program under this subsection shall submit service data including measures to the division of mental health.

(g) Notwithstanding IC 4-12-1-14.3, as amended by this act, two million five hundred thousand dollars ($2,500,000) is appropriated from interest earned on the tobacco fund settlement established by IC 4-12-1-14.3, as amended by this act, to the Indiana comprehensive health insurance association (ICHIA) to provide reduced premiums to qualified individuals who are unable to afford ICHIA health insurance without the reduction.

(h) The general assembly encourages the governor to include the following programs in the governor's next recommended appropriations from the tobacco settlement fund:

(1) Two million five hundred thousand dollars ($2,500,000) to the Indiana comprehensive health insurance association (ICHIA) to provide reduced premiums to qualified individuals who are unable to afford ICHIA health insurance without the reduction.

(2) Thirty million dollars ($30,000,000) to be combined with existing funds for hospital care for the indigent to be used by the office of Medicaid policy and planning to be used with the funds for hospital care for the indigent to secure federal Medicaid matching funds. The office of Medicaid policy and planning is encouraged to apply for any federal waivers necessary to secure the federal Medicaid matching funds and to use the funds to provide health care coverage for individuals who are uninsured, working, and poor.

(i) This SECTION expires July 1, 2002.

SECTION 11. **An emergency is declared for this act.**

(Reference is to HB 1312 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 1.

C. BROWN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1380, 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 10, nays 3.

PORTER, Chair

Report adopted.

OTHER BUSINESS ON THE SPEAKER'S TABLE

Referrals to Ways and Means

The Speaker announced, pursuant to House Rule 127, that House Bills 1122, 1190, 1295, and 1312 had been referred to the Committee on Ways and Means.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 4:10 p.m. with the Speaker Pro Tempore, Representative Dobis, in the Chair.

SPECIAL ORDER OF BUSINESS

House Bill 1008

The Chair handed down for second reading House Bill 1008, which had been made a special order of business. The bill was reread a second time by title. The motion of Representative M. Smith was pending.

HOUSE MOTION
(Amendment 1008–5)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 29, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 32. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies to a township having a population of more than six hundred (600) but less than six hundred thirty-five (635) located in a county having a population of more than twelve thousand six hundred (12,600) but less than thirteen thousand (13,000).**

(b) Notwithstanding IC 36-1-8-4, a township may transfer eight thousand two hundred dollars ($8,200) from the township's fire fund to the township's general fund. The township is not required to return the money to the fire fund.

(c) A township may reduce the maximum permissible levy for the township's fire fund under IC 6-1.1-18.5 by four thousand dollars ($4,000). The township may increase the maximum permissible levy for the township's general fund under IC 6-1.1-18.5 by four thousand dollars ($4,000).

(d) This SECTION applies to property taxes first due and payable after December 31, 2000.

(e) This SECTION expires December 31, 2001.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1008 as printed January 19, 2000.)

M. SMITH

Motion prevailed.

HOUSE MOTION
(Amendment 1008–4)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 5, delete line 37.

Page 5, line 38, delete "(2)" and insert "(1)".

Page 5, line 39, delete "(3)" and insert "(2)".

Page 5, line 40, delete "(4)" and insert "(3)".

Page 5, line 41, delete "and".

Page 5, delete line 42.

(Reference is to HB 1008 as printed January 19, 2000.)

BECKER

Motion prevailed.

HOUSE MOTION
(Amendment 1008–3)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 8, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 12. IC 36-1-8-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 13. (a) A unit must prepare a dishonored check report listing each dishonored check and the name of each person tendering a dishonored check which the unit received during the preceding three (3) months.**

(b) One (1) copy of the report must be filed with the unit fiscal officer.

(c) One (1) copy of the report must be filed with the prosecutor in whose jurisdiction the unit lies.

(d) The prosecutor shall give notice by one (1) publication under IC 5-3-1-4 of the dishonored checks reported by each unit, and shall indicate in the publication the persons against whom the prosecutor will commence actions.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1008 as printed January 19, 2000.)

COOK

Motion prevailed.

HOUSE MOTION
(Amendment 1008–6)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 5, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 4. IC 6-3.5-1.1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 12. (a) The part of a county's certified distribution for a calendar year that is to be used as property tax replacement credits shall be allocated by the county auditor among the civil taxing units and school corporations of the county.

(b) Except as provided in section 13 of this chapter, the amount of property tax replacement credits that each civil taxing unit and school corporation in a county is entitled to receive during a calendar year equals the product of:

(1) that part of the county's certified distribution that is dedicated to providing property tax replacement credits for that same calendar year; multiplied by

(2) a fraction:

(A) The numerator of the fraction equals the ~~sum of the total property taxes being collected by the civil taxing unit or school corporation~~ **civil taxing unit's or school corporation's maximum permissible property tax levy** during that calendar year, plus with respect to a civil taxing unit, the amount of federal revenue sharing funds and certified shares received by it during that calendar year to the extent that they are used to reduce its property tax levy below the limit imposed by IC 6-1.1-18.5 for that same calendar year.

(B) The denominator of the fraction equals the ~~sum of the total property taxes being collected by all civil taxing units and school corporations,~~ **maximum permissible property tax levies of all civil taxing units and school corporations in the county,** plus the amount of federal revenue sharing funds and certified shares received by all civil taxing units in the county to the extent that they are used to reduce the civil taxing units' property tax levies below the limits imposed by IC 6-1.1-18.5 for that same calendar year.

(c) The state board of tax commissioners shall provide each county

auditor with the amount of property tax replacement credits that each civil taxing unit and school corporation in the auditor's county is entitled to receive. The county auditor shall then certify to each civil taxing unit and school corporation the amount of property tax replacement credits it is entitled to receive (after adjustment made under section 13 of this chapter) during that calendar year. The county auditor shall also certify these distributions to the county treasurer.

SECTION 5. IC 6-3.5-1.1-15, AS AMENDED BY P.L.273-1999, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 15. (a) As used in this section, "attributed levy" of a civil taxing unit means the sum of:

(1) the ~~ad valorem~~ **maximum permissible** property tax levy of the civil taxing unit ~~that is currently being collected~~ at the time the allocation is made; plus

(2) the ~~current~~ **maximum permissible** ad valorem property tax levy of any special taxing district, authority, board, or other entity formed to discharge governmental services or functions on behalf of or ordinarily attributable to the civil taxing unit; plus

(3) the amount of federal revenue sharing funds and certified shares that were used by the civil taxing unit (or any special taxing district, authority, board, or other entity formed to discharge governmental services or functions on behalf of or ordinarily attributable to the civil taxing unit) to reduce its ad valorem property tax levies below the limits imposed by IC 6-1.1-18.5; plus

(4) in the case of a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

(b) The part of a county's certified distribution that is to be used as certified shares shall be allocated only among the county's civil taxing units. Each civil taxing unit of a county is entitled to receive a percentage of the certified shares to be distributed in the county equal to the ratio of its attributed levy to the total attributed levies of all civil taxing units of the county.

(c) The local government tax control board established by IC 6-1.1-18.5-11 shall determine the attributed levies of civil taxing units that are entitled to receive certified shares during a calendar year. If the ~~ad valorem~~ **maximum permissible** property tax levy of any special taxing district, authority, board, or other entity is attributed to another civil taxing unit under subsection (b)(2), then the special taxing district, authority, board, or other entity shall not be treated as having an attributed levy of its own. The local government tax control board shall certify the attributed levy amounts to the appropriate county auditor. The county auditor shall then allocate the certified shares among the civil taxing units of his county.

(d) Certified shares received by a civil taxing unit shall be treated as additional revenue for the purpose of fixing its budget for the calendar year during which the certified shares will be received. The certified shares may be allocated to or appropriated for any purpose, including property tax relief or a transfer of funds to another civil taxing unit whose levy was attributed to the civil taxing unit in the determination of its attributed levy.

SECTION 6. IC 6-3.5-6-18, AS AMENDED BY P.L.273-1999, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 18. (a) The revenue a county auditor receives under this chapter shall be used to:

(1) replace the amount, if any, of property tax revenue lost due to the allowance of an increased homestead credit within the county;

(2) fund the operation of a public communications system and computer facilities district as provided in an election, if any, made by the county fiscal body under IC 36-8-15-19(b);

(3) fund the operation of a public transportation corporation as provided in an election, if any, made by the county fiscal body under IC 36-9-4-42;

(4) make payments permitted under IC 36-7-15.1-17.5;

(5) make payments permitted under subsection (I); and

(6) make distributions of distributive shares to the civil taxing units of a county.

(b) The county auditor shall retain from the payments of the county's certified distribution, an amount equal to the revenue lost, if any, due to the increase of the homestead credit within the county. This money shall be distributed to the civil taxing units and school corporations of the county as though they were property tax collections and in such a manner that no civil taxing unit or school corporation shall suffer a net revenue loss due to the allowance of an increased homestead credit.

(c) The county auditor shall retain the amount, if any, specified by the county fiscal body for a particular calendar year under subsection (I), IC 36-7-15.1-17.5, IC 36-8-15-19(b), and IC 36-9-4-42 from the county's certified distribution for that same calendar year. The county auditor shall distribute amounts retained under this subsection to the county.

(d) All certified distribution revenues that are not retained and distributed under subsections (b) and (c) shall be distributed to the civil taxing units of the county as distributive shares.

(e) The amount of distributive shares that each civil taxing unit in a county is entitled to receive during a month equals the product of the following:

(1) The amount of revenue that is to be distributed as distributive shares during that month; multiplied by

(2) A fraction. The numerator of the fraction equals the ~~total property taxes that are first due and payable to the civil taxing unit~~ **civil taxing unit's maximum permissible property tax levy** during the calendar year in which the month falls, plus, for a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund. The denominator of the fraction equals the sum of the ~~total property taxes that are first due and payable to~~ **maximum permissible property tax levies of** all civil taxing units of the county during the calendar year in which the month falls, plus an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

(f) The state board of tax commissioners shall provide each county auditor with the fractional amount of distributive shares that each civil taxing unit in the auditor's county is entitled to receive monthly under this section.

(g) Notwithstanding subsection (e), if a civil taxing unit of an adopting county does not impose a property tax levy that is first due and payable in a calendar year in which distributive shares are being distributed under this section, that civil taxing unit is entitled to receive a part of the revenue to be distributed as distributive shares under this section within the county. The fractional amount such a civil taxing unit is entitled to receive each month during that calendar year equals the product of the following:

(1) The amount to be distributed as distributive shares during that month; multiplied by

(2) A fraction. The numerator of the fraction equals the budget of that civil taxing unit for that calendar year. The denominator of the fraction equals the aggregate budgets of all civil taxing units of that county for that calendar year.

(h) If for a calendar year a civil taxing unit is allocated a part of a county's distributive shares by subsection (g), then the formula used in subsection (e) to determine all other civil taxing units' distributive shares shall be changed each month for that same year by reducing the amount to be distributed as distributive shares under subsection (e) by the amount of distributive shares allocated under subsection (g) for that same month. The state board of tax commissioners shall make any adjustments required by this subsection and provide them to the appropriate county auditors.

(I) Notwithstanding any other law, a county fiscal body may pledge revenues received under this chapter to the payment of bonds or lease rentals to finance a qualified economic development tax project under IC 36-7-27 in that county or in any other county if the county fiscal body determines that the project will promote significant opportunities for the gainful employment or retention of employment of the county's residents.

SECTION 7. IC 6-3.5-7-12, AS AMENDED BY P.L.124-1999, SECTION 1, AND AS AMENDED BY P.L.273-1999, SECTION 74, IS

AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 12. (a) *Except as provided in section 23 of this chapter,* the county auditor shall distribute in the manner specified in this section the certified distribution to the county.

(b) Except as provided in subsections (c) and (h) and section 15 of this chapter, the amount of the certified distribution that the county and each city or town in a county is entitled to receive during May and November of each year equals the product of *the following:*

(1) The amount of the certified distribution for that month; multiplied by

(2) A fraction. The numerator of the fraction equals the *sum of the following:*

(A) ~~Total property taxes that are first due and payable to~~ **The maximum permissible property tax levy of** the county, city, or town during the calendar year in which the month falls; *plus*

(B) For a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

The denominator of the fraction equals the sum of the ~~total property taxes that are first due and payable to~~ **maximum property tax levies of** the county and all cities and towns of the county during the calendar year in which the month falls, plus an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

(c) This subsection applies to a county council or county income tax council that imposes a tax under this chapter after June 1, 1992. The body imposing the tax may adopt an ordinance before July 1 of a year to provide for the distribution of certified distributions under this subsection instead of a distribution under subsection (b). The following apply if an ordinance is adopted under this subsection:

(1) The ordinance is effective January 1 of the following year.

(2) The amount of the certified distribution that the county and each city and town in the county is entitled to receive during May and November of each year equals the product of:

(A) the amount of the certified distribution for the month; multiplied by

(B) a fraction. For a city or town, the numerator of the fraction equals the population of the city or the town. For a county, the numerator of the fraction equals the population of the part of the county that is not located in a city or town. The denominator of the fraction equals the sum of the population of all cities and towns located in the county and the population of the part of the county that is not located in a city or town.

(3) The ordinance may be made irrevocable for the duration of specified lease rental or debt service payments.

(d) The body imposing the tax may not adopt an ordinance under subsection (c) if, before the adoption of the proposed ordinance, any of the following have pledged the county economic development income tax for any purpose permitted by IC 5-1-14 or any other statute:

(1) The county.

(2) A city or town in the county.

(3) A commission, a board, a department, or an authority that is authorized by statute to pledge the county economic development income tax.

(e) The state board of tax commissioners shall provide each county auditor with the fractional amount of the certified distribution that the county and each city or town in the county is entitled to receive under this section.

(f) Money received by a county, city, or town under this section shall be deposited in the unit's economic development income tax fund.

(g) *Except as provided in subsection (b)(2)(B),* in determining the fractional amount of the certified distribution the county and its cities and towns are entitled to receive under subsection (b) during a calendar year, the state board of tax commissioners shall consider only property taxes imposed on tangible property subject to assessment in that county.

(h) In a county having a consolidated city, only the consolidated city is entitled to the certified distribution, subject to the requirements of section 15 of this chapter.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1008 as printed January 19, 2000.)

THOMPSON

Representative Moses rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Chair ruled the point was well taken and the motion was out of order.

HOUSE MOTION
(Amendment 1008–7)

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 29, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 32. [EFFECTIVE JULY 1, 1999 (RETROACTIVE)]: **(a) The definitions in IC 6-1.1-1 apply throughout this SECTION.**

(b) The state shall pay all costs of the general reassessment that was scheduled to begin July 1, 1999, under IC 6-1.1-4-4.".

Renumber all SECTIONS consecutively.

(Reference is to HB1008 as printed January 19, 2000.)

GOEGLEIN

Representative Moses rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Chair ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

HOUSE BILLS ON SECOND READING

House Bill 1188

Representative Fry called down House Bill 1188 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1228

Representative Moses called down House Bill 1228 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1043

Representative Stilwell called down House Bill 1043 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1043–2)

Mr. Speaker: I move that House Bill 1043 be amended to read as follows:

Page 2, line 19, reset in roman "IC".

Page 2, line 26, reset in roman "a waiting period or".

Page 2, delete lines 28 through 34.

Page 6, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 5. IC 22-4-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) For the purpose of charging employers' experience or reimbursable accounts with regular benefits paid subsequent to July 3, 1971, to any eligible individual but except as provided in IC 22-4-22 and subsection (f), such benefits paid shall be charged proportionately against the experience or reimbursable accounts of his employers in his base period (on the basis of total wage credits established in such base period) against whose accounts the maximum charges specified in this section shall not have been previously made. Such charges shall be made in the inverse chronological order in which the wage credits of such individuals were established. However, when an individual's claim has been computed for the purpose of determining his regular benefit rights, maximum regular benefit amount, and the proportion of such maximum amount to be charged to the experience or reimbursable accounts of respective chargeable employers in the base period, the experience or reimbursable account of any employer charged with regular benefits

paid shall not be credited or recredited with any portion of such maximum amount because of any portion of such individual's wage credits remaining uncharged at the expiration of his benefit period. The maximum so charged against the account of any employer shall not exceed twenty-eight percent (28%) of the total wage credits of such individual with each such employer with which wage credits were established during such individual's base period. Benefits paid under provisions of IC 22-4-22-3 in excess of the amount that the claimant would have been monetarily eligible for under other provisions of this article shall be paid from the fund and not charged to the experience account of any employer; however, this exception shall not apply to those employers electing to make payments in lieu of contributions who shall be charged for all benefit payments which are attributable to service in their employ. Irrespective of the twenty-eight percent (28%) maximum limitation provided for in this section, any extended benefits paid to an eligible individual based on service with a governmental entity of this state or its political subdivisions shall be charged to the experience or reimbursable accounts of the employers, and fifty percent (50%) of any extended benefits paid to an eligible individual shall be charged to the experience or reimbursable accounts of his employers in his base period, other than governmental entities of this state or its political subdivisions, in the same proportion and sequence as are provided in this section for regular benefits paid. Additional benefits paid under ~~IC 22-4-12-4(c)~~ **IC 22-4-12-4(e)** shall:

(1) be paid from the fund; and

(2) not be charged to the experience account or the reimbursable account of any employer.

(b) If the aggregate of wages paid to an individual by two (2) or more employers during the same calendar quarter exceeds the maximum wage credits (as defined in IC 22-4-4-3) then the experience or reimbursable account of each such employer shall be charged in the ratio which the amount of wage credits from such employer bears to the total amount of wage credits during the base period.

(c) When wage records show that an individual has been employed by two (2) or more employers during the same calendar quarter of the base period but do not indicate both that such employment was consecutive and the order of sequence thereof, then and in such cases it shall be deemed that the employer with whom the individual established a plurality of wage credits in such calendar quarter is the most recent employer in such quarter and its experience or reimbursable account shall be first charged with benefits paid to such individual. The experience or reimbursable account of the employer with whom the next highest amount of wage credits were established shall be charged secondly and the experience or reimbursable accounts of other employers during such quarters, if any, shall likewise be charged in order according to plurality of wage credits established by such individual.

(d) Except as provided in subsection (f), if an individual:

(1) voluntarily leaves an employer without good cause in connection with the work; or

(2) is discharged from an employer for just cause;

wage credits earned with the employer from whom the employee has separated under these conditions shall be used to compute the claimant's eligibility for benefits, but charges based on such wage credits shall be paid from the fund and not charged to the experience account of any employer. However, this exception shall not apply to those employers who elect to make payments in lieu of contributions, who shall be charged for all benefit payments which are attributable to service in their employ.

(e) Any nonprofit organization which elects to make payments in lieu of contributions into the unemployment compensation fund as provided in this article is not liable to make the payments with respect to the benefits paid to any individual whose base period wages include wages for previously uncovered services as defined in IC 22-4-4-4, nor is the experience account of any other employer liable for charges for benefits paid the individual to the extent that the unemployment compensation fund is reimbursed for these benefits pursuant to Section 121 of P.L.94-566. Payments which otherwise would have been chargeable to the reimbursable or contributing employers shall be charged to the fund.

(f) If an individual:

(1) earns wages during his base period through employment with two (2) or more employers concurrently;

(2) is laid off from work by one (1) of the employers; and

(3) continues to work for one (1) or more of the other employers after the end of the base period and continues to work during the applicable benefit year on substantially the same basis as during the base period;

wage credits earned with the base period employers shall be used to compute the claimant's eligibility for benefits, but charges based on the wage credits from the employer who continues to employ the individual shall be charged to the experience or reimbursable account of the employer who laid the claimant off.

(g) Subsection (f) does not affect the eligibility of a claimant who otherwise qualifies for benefits nor the computation of his benefits.

SECTION 2. IC 22-4-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) Except as provided in section 3.1 of this chapter, the applicable schedule of rates for the calendar year 1983 and thereafter shall be determined by the ratio resulting when the balance in the fund as of the determination date is divided by the total payroll of all subject employers for the immediately preceding calendar year. Schedule A, B, C, or D, appearing on the line opposite the fund ratio in the schedule below, shall be applicable in determining and assigning each employer's contribution rate for the calendar year immediately following the determination date. For the purposes of this subsection, "total payroll" means total remuneration reported by all contributing employers as required by this article and does not include the total payroll of any employer who elected to become liable for payments in lieu of contributions (as defined in IC 22-4-2-32). For the purposes of this subsection, "subject employers" means those employers who are subject to contribution.

FUND RATIO SCHEDULE

When the Fund Ratio Is:

As Much As	But Less Than	Applicable Schedule
	1.0%	A
1.0%	1.5%	B
1.5%	2.25%	C
2.25%		D

(b) If the conditions and requirements of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a credit balance and who are eligible therefor according to each employer's credit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A, B, C, or D on the line opposite his credit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS WITH CREDIT BALANCES

When the Credit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%) A	B	C	D
3.0		~~1.2~~ **1.02**	~~0.2~~ **0.17**	~~0.2~~ **0.17**	~~0.2~~ **0.17**
2.8	3.0	~~1.4~~ **1.19**	~~0.4~~ **0.34**	~~0.2~~ **0.17**	~~0.2~~ **0.17**
2.6	2.8	~~1.6~~ **1.36**	~~0.6~~ **0.51**	~~0.2~~ **0.17**	~~0.2~~ **0.17**
2.4	2.6	~~1.8~~ **1.53**	~~0.8~~ **0.68**	~~0.4~~ **0.34**	~~0.2~~ **0.17**
2.2	2.4	~~2.0~~ **1.70**	~~1.0~~ **0.85**	~~0.6~~ **0.51**	~~0.2~~ **0.17**
2.0	2.2	~~2.2~~ **1.87**	~~1.2~~ **1.02**	~~0.8~~ **0.68**	~~0.4~~ **0.34**
1.8	2.0	~~2.4~~ **2.04**	~~1.4~~ **1.19**	~~1.0~~ **0.85**	~~0.6~~ **0.51**
1.6	1.8	~~2.6~~ **2.21**	~~1.6~~ **1.36**	~~1.2~~ **1.02**	~~0.8~~ **0.68**
1.4	1.6	~~2.8~~ **2.38**	~~1.8~~ **1.53**	~~1.4~~ **1.19**	~~1.0~~ **0.85**
1.2	1.4	~~3.0~~ **2.55**	~~2.0~~ **1.70**	~~1.6~~ **1.36**	~~1.2~~ **1.02**
1.0	1.2	~~3.2~~ **2.72**	~~2.2~~ **1.87**	~~1.8~~ **1.53**	~~1.4~~ **1.19**
0.8	1.0	~~3.4~~ **2.89**	~~2.4~~ **2.04**	~~2.0~~ **1.70**	~~1.6~~ **1.36**
0.6	0.8	~~3.6~~ **3.06**	~~2.6~~ **2.21**	~~2.2~~ **1.87**	~~1.8~~ **1.53**
0.4	0.6	~~3.8~~ **3.23**	~~2.8~~ **2.38**	~~2.4~~ **2.04**	~~2.0~~ **1.70**
0.2	0.4	~~4.0~~ **3.40**	~~3.0~~ **2.55**	~~2.6~~ **2.21**	~~2.2~~ **1.87**
0	0.2	~~4.2~~ **3.57**	~~3.2~~ **2.72**	~~2.8~~ **2.38**	~~2.4~~ **2.04**

(c) Each employer whose account as of any computation date occurring on and after June 30, 1984, shows a debit balance shall be

assigned the rate of contributions appearing on the line opposite his debit ratio as set forth in the following rate schedule for accounts with debit balances:

RATE SCHEDULE FOR ACCOUNTS
WITH DEBIT BALANCES

When the Debit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%) A	B	C	D
	1.5	~~4.5~~ **3.825**	~~4.4~~ **3.740**	~~4.3~~ **3.655**	~~4.2~~ **3.570**
1.5	3.0	~~4.8~~ **4.080**	~~4.7~~ **3.995**	~~4.6~~ **3.910**	~~4.5~~ **3.825**
3.0	4.5	~~5.1~~ **4.335**	~~5.0~~ **4.250**	~~4.9~~ **4.165**	~~4.8~~ **4.080**
4.5	6.0	~~5.4~~ **4.590**	~~5.3~~ **4.505**	~~5.2~~ **4.420**	~~5.1~~ **4.335**
6.0		~~5.7~~ **5.400**	~~5.6~~ **5.400**	~~5.5~~ **5.400**	~~5.4~~ **5.400**

(d) Any adjustment in the amount charged to any employer's experience account made subsequent to the assignment of rates of contributions for any calendar year shall not operate to alter the amount charged to the experience accounts of any other base-period employers.".

Page 9, line 37, reset in roman "waiting period or".

Page 12, line 21, reset in roman "waiting period or".

Delete pages 15 through 19.

Renumber all SECTIONS consecutively.

(Reference is to HB 1043 as printed January 14, 2000.)

STILWELL

Representative Mannweiler rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into House Bill 1043 a bill pending before the House. The Chair ruled the point was well taken and the motion was out of order.

Representative Stilwell withdrew the call of House Bill 1043.

The Speaker Pro Tempore yielded the gavel to the Speaker

ENGROSSED HOUSE BILLS ON THIRD READING

Engrossed House Bill 1322

Representative Pelath called down Engrossed House Bill 1322 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 59: yeas 54, 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 Server and Bowser.

Engrossed House Bill 1006

Representative Bauer called down Engrossed House Bill 1006 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 60: yeas 83, nays 16. 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 Borst, Simpson, and Mills.

Engrossed House Bill 1005

Representative Welch called down Engrossed House Bill 1005 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? Representative Saunders was excused from voting.

Roll Call 61: yeas 62, nays 35. 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 Borst.

Engrossed House Bill 1259

Representative Herrell called down Engrossed House Bill 1259 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.

HOUSE MOTION
(Amendment 1259–1)

Mr. Speaker: I move that Engrossed House Bill 1259 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

Page 1, line 4, after "agency" insert "**(**".

Page 1, line 4, delete "full-time,".

Page 1, line 5, delete "paid".

Page 1, line 5, after "IC 36-8-2-3" insert "**or IC 36-8-13-3(a)(1) that employs both full time, paid members and volunteer members or only full time, paid members)**".

Page 1, line 10, delete "full-time, paid".

Page 1, line 11, after "IC 36-8-2-3" insert "**or IC 36-8-13-3(a)(1) that employs both full time, paid members and volunteer members or only full time, paid members**".

Page 2, line 2, after "IC 36-8-2-3" insert "**or IC 36-8-13-3(a)(1) that employs both full time, paid members and volunteer members or only full time, paid members**".

Page 2, line 10, delete "full-time, paid".

Page 2, line 10, after "IC 36-8-2-3" insert "**or IC 36-8-13-3(a)(1) that employs both full time, paid members and volunteer members or only full time, paid members**".

Page 3, delete lines 5 through 20, begin a new paragraph and insert:

"**Sec. 8. A fire department that imposes a service charge under this chapter and maintains an action for reimbursement under IC 36-25-6-5 may recover all costs of the action, including attorney fees.**".

(Reference is to HB 1259 as printed January 14, 2000.)

HERRELL

There being a two-thirds vote in favor of the motion, the motion prevailed.

COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred Engrossed House Bill 1259, begs leave to report that said bill has been amended as directed.

HERRELL

Report adopted.

The question then was, Shall the bill pass?

Roll Call 62: yeas 97, 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 Johnson, Wolf, and Lewis.

OTHER BUSINESS ON THE SPEAKER'S TABLE

Reassignments

The Speaker announced the following reassignment:

House Bill 1230 from the Committee on Roads and Transportation to the Committee on Ways and Means.

HOUSE MOTION

Mr. Speaker: I move that Representative Dobis be added as coauthor of House Bill 1006.

BAUER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Foley and Kuzman be added as coauthors of House Bill 1025.

KROMKOWSKI

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representative M. Young be added as coauthor of House Bill 1030

STEVENSON

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Cherry be added as coauthor of House Bill 1031.

STEVENSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives Stevenson, Mock, and Atterholt be added as coauthors of House Bill 1037

STURTZ

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives Kruse, Crosby, Dvorak, Kruzan, Saunders, and Bailey be added as coauthors of House Bill 1040

STILWELL

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives T. Adams, Dvorak, Linder, Lytle, Murphy, Pond, Steele, and D. Young be added as coauthors of House Bill 1046

HASLER

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives T. Adams, Alderman, Ayres, Bardon, Bodiker, Budak, Cook, Dickinson, Friend, Frizzell, Fry, GiaQuinta, Grubb, Harris, Klinker, Kromkowski, Kruzan, Kuzman, L. Lawson, Liggett, Mellinger, Porter, Ripley, Ruppel, M. Smith, Stevenson, Tincher, Weinzapfel, Welch, and McClain be added as coauthors of House Bill 1062

HERRELL

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representative Frizzell be added as coauthor of House Bill 1066

WELCH

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative McClain be added as coauthor of House Bill 1073.

BAILEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Mellinger and Scholer be added as coauthors of House Bill 1074.

LEUCK

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Mock and Alderman be added as coauthors of House Bill 1096.

L. LAWSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Liggett be added as coauthor of House Bill 1108.

T. ADAMS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives Mellinger, Mock, Murphy, Pond,. and D. Young be added as coauthors of House Bill 1109

T. ADAMS

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Stevenson be added as coauthor of House Bill 1112.

SAUNDERS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Stevenson be added as coauthor of House Bill 1113.

SAUNDERS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Richardson be added as coauthor of House Bill 1116.

TORR

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Porter be added as coauthor of House Bill 1122.

KERSEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Foley be added as coauthor of House Bill 1125.

MAHERN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives D. Young, Ulmer, and Tincher be added as coauthors of House Bill 1146.

AVERY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Hoffman, Becker, and Kruse be added as coauthors of House Bill 1157.

BISCHOFF

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Tincher be added as coauthor of House Bill 1158.

CROSBY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives Budak, Hasler, and Behning be added as coauthors of House Bill 1190

KROMKOWSKI

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives L. Lawson, Summers, and Foley be added as coauthors of House Bill 1192.

DICKINSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Saunders be added as coauthor of House Bill 1202.

STILWELL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives T. Adams, Alderman, Bardon, Friend, Kuzman, and Welch be added as coauthors of House Bill 1237

HERRELL

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Bailey be added as coauthor of House Bill 1257.

LINDER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative T. Adams be added as coauthor of House Bill 1301.

L. LAWSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Crawford be added as coauthor of House Bill 1303.

MOSES

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives Becker, Hasler, Budak, Crawford, Crosby, Day, Fry, Goeglein, Moses, and Welch be added as coauthors of House Bill 1312

C. BROWN

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives T. Adams, L. Lawson, and Ayres be added as coauthors of House Bill 1321

PELATH

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Hasler be added as coauthor of House Bill 1327.

KRUZAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives Hasler, Dillon, C. Brown, Frizzell, Scholer, and Dumezich be added as coauthors of House Bill 1329

KRUZAN

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Scholer be added as coauthor of House Bill 1330.

KRUZAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Whetstone be added as coauthor of House Bill 1342.

BAILEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Day and M. Young be added as coauthors of House Bill 1351.

CRAWFORD

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Dobis,. Burton, and Dumezich be added as coauthor of House Bill 1376.

V. SMITH

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Denbo the House adjourned at 6:30 p.m., this twenty-fourth day of January, 2000, until Tuesday, January 25, 2000, at 1:00 p.m.

JOHN R. GREGG
Speaker of the House of Representatives

LEE SMITH
Principal Clerk of the House of Representatives