



# Journal of the House

State of Indiana

112th General Assembly

First Regular Session

Twenty-first Meeting Day

Thursday Morning

February 15, 2001

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

The invocation was offered by Representative Terry Goodin.

The Pledge of Allegiance to the Flag was led by Representative Duane Cheney.

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

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

Roll Call 122: 97 present; 3 excused. The Speaker announced a quorum in attendance. [NOTE: • indicates those who were excused.]

## HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Monday, February 19, 2001, at 1:00 p.m.

AVERY

Motion prevailed.

## RESOLUTIONS ON FIRST READING

### House Resolution 9

Representative Kuzman introduced House Resolution 9:

A RESOLUTION recognizing the South County Residents Opposing Dumps, Inc. (SCROD) for their work in fighting the proposed landfill in South Lake County.

*Whereas, Nearly seven years ago Hickory Hills proposed a landfill on its property in South Lake County;*

*Whereas, Local residents united to fight the proposed landfill through a group called South County Residents Opposing Dumps, Inc. (SCROD);*

*Whereas, The residents of South Lake County, represented by SCROD, adamantly opposed the dump and petitioned the Lake County Council for rezoning; and*

*Whereas, The Lake County Council voted unanimously on January 9, 2001, to rezone the Hickory Hills property for agricultural use: Therefore,*

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

SECTION 1. That the Indiana House of Representatives wishes to recognize the members of the South County Residents Opposing Dumps, Inc. (SCROD) for their work in fighting the proposed landfill in South Lake County.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to the members of SCROD.

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

## REPORTS FROM COMMITTEES

### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1003, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

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

"SECTION 1. IC 4-30-17-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3.5. (a) Two (2) segregated accounts shall be established within the build Indiana fund as follows:

(1) The state and local capital projects account.

(2) The lottery and gaming surplus account.

(b) Upon receiving surplus lottery revenue distributions from the state lottery commission and surplus gaming revenue distributions from the state gaming commission, the treasurer of state shall credit the surplus lottery revenue and surplus gaming revenue to the lottery and gaming surplus account. All money remaining in the lottery and gaming surplus account after the transfer transfers required by

subsection (c) **and** (d) shall be transferred to the state and local capital projects account.

(c) Before the twenty-fifth day of the month, the auditor of state shall transfer from the lottery and gaming surplus account to the state general fund motor vehicle excise tax replacement account an amount equal to the following:

- (1) In calendar year 1996, eleven million six hundred twenty-five thousand dollars (\$11,625,000) per month.
- (2) In calendar year 1997, twelve million nine hundred twenty-five thousand twenty dollars (\$12,925,020) per month.
- (3) In calendar year 1998, fifteen million ten thousand dollars (\$15,010,000) per month.
- (4) In calendar year 1999, seventeen million one hundred ninety-two thousand dollars (\$17,192,000) per month.
- (5) In calendar year 2000, nineteen million four hundred thirty-five thousand two hundred ten dollars (\$19,435,210) per month.
- (6) In calendar year 2001 and each year thereafter, nineteen million six hundred eighty-four thousand three hundred seventy dollars (\$19,684,370) per month.

(d) **In 2001 and in 2002, the auditor of state shall transfer before the last day of December from the lottery and gaming surplus account to the family and children's property tax relief fund established by IC 6-1.1-20.4 an amount equal to the greater of zero (0) or the amount determined under the following STEPS:**

**STEP ONE: Determine the amount transferred to the lottery and gaming surplus account during the preceding twelve (12) months.**

**STEP TWO: Determine the amount transferred to the state general fund motor vehicle excise tax replacement account under subsection (c) from the lottery and gaming surplus account during the preceding twelve (12) months.**

**STEP THREE: Determine the result of:**

- (1) the STEP ONE amount; minus
- (2) the STEP TWO amount.

**STEP FOUR: Determine the result of:**

- (1) the STEP THREE amount; minus
- (2) one hundred million dollars (\$100,000,000).

(e) This subsection applies only if insufficient money is available in the lottery and gaming surplus account of the build Indiana fund to make the distributions to the state general fund motor vehicle excise tax replacement account that are required under subsection (c). Before the twenty-fifth day of each month, the auditor of state shall transfer from the state general fund to the state general fund motor vehicle excise tax replacement account the difference between:

- (1) the amount that subsection (c) requires the auditor of state to distribute from the lottery and gaming surplus account of the build Indiana fund to the state general fund motor vehicle excise tax replacement account; and
- (2) the amount that is available for distribution from the lottery and gaming surplus account in the build Indiana fund to the state general fund motor vehicle excise tax replacement account.

The transfers required under this subsection are annually appropriated from the state general fund."

Page 4, delete lines 31 through 42.

Page 5, delete lines 1 through 32.

Page 6, line 10, reset in roman "five-hundredths (1.05)".

Page 6, line 10, after "(1.05)" delete "." and insert ", for 2001 and for years after 2003, and".

Page 6, line 11, after "(1.04)" delete "." and insert ", for 2002 and 2003."

Page 6, line 13, reset in roman "one-tenth (1.1)".

Page 6, line 13, after "(1.1)" delete "." and insert ", for 2001 and for years after 2003, and".

Page 6, line 13, after "(1.08)" delete "." and insert ", for 2002 and 2003."

Page 11, delete lines 40 through 42, begin a new paragraph and insert:

"SECTION 7. IC 6-1.1-20.4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

#### **Chapter 20.4. Family and Children's Fund Property Tax Relief**

**Sec. 1.** As used in this chapter, "net family and children's fund property tax liability" means the property taxes imposed on a taxpayer under IC 12-19-7 for a county's family and children's fund that are due and payable in 2003, as shown on the property tax statement sent to a taxpayer after all deductions and credits have been applied under any other statute.

**Sec. 2. (a)** The family and children's property tax relief fund is established. The purpose of the fund is to provide property tax relief as specified in this chapter. The fund shall be administered by the budget agency.

**(b)** The fund consists of:

- (1) Transfers to the fund under IC 4-30-17-3.5.
- (2) Any appropriations from the general assembly.
- (3) Any gifts and grants to the fund.

**(c)** 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 funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

**(d)** The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for the purposes set forth in this chapter.

**(e)** A local match account is established within the family and children's property tax relief fund for each county. A county may deposit into the county's local match account any local revenue, other than revenue from property taxes, for the purposes of providing the county's share of the credit under this chapter.

**(f)** The credit paid under this chapter to taxpayers in a county shall consist of:

- (1) amounts that are transferred to the family and children's property tax relief fund from the lottery and gaming surplus account; and
- (2) a matching amount from local revenue, other than revenue from property taxes, that is deposited in the county's local match account.

The amount of state money used to pay a credit under this chapter for a county's taxpayers must be matched on a one (1) to one (1) basis by amounts deposited by the county in the county's local match account.

**Sec. 3.** For property taxes first due and payable in 2003, a taxpayer is entitled to a credit under this chapter against the taxpayer's net family and children's fund property tax liability. The amount of the credit is equal to:

- (1) the taxpayer's net family and children's fund property tax liability for 2003; multiplied by
- (2) the percentage determined for the year for the taxpayer's county by the budget agency under section 4 of this chapter.

**Sec. 4. (a)** The state board of tax commissioners shall provide the budget agency with an estimate, based on the balance in the family and children's property tax relief fund and the amount in each county's local match account, of the percentage that may be used under section 3(2) of this chapter in providing credits in 2003 to taxpayers under this chapter. The budget agency, after review by the state budget committee, shall determine the percentage that shall be used under section 3(2) of this chapter in providing credits in 2003 to taxpayers under this chapter.

**(b)** The state board of tax commissioners' estimate of the credit percentage and the budget agency's final determination of the credit percentage for a particular county must be based on the balance in the family and children's property tax relief fund and the amounts deposited by the county in its local match account.

**(c)** The state budget committee shall meet before the second Monday in January of 2003 to review the credit percentage proposed for the year for each county by the budget agency.

**(d)** The budget agency must report to the governor and the legislative council the credit percentage determined under this section for each county not more than seven (7) days after the state budget committee meets to review the proposed credit percentage.

**Sec. 5.** The county auditor shall compute the net amount of property taxes in the county that is attributable to property taxes imposed on a taxpayer under IC 12-19-7 in 2003 for the county's family and children's fund, after all deductions and credits have been

applied under any other statute.

Sec. 6. Before February 1 of 2003, each county auditor shall certify to the state board of tax commissioners the amount of credits allowed under this chapter in the county for 2003. Except as otherwise provided in this chapter, the credits shall be determined in the same manner as property tax replacement credits are determined under IC 6-1.1-21, after deducting the property tax replacement credit under IC 6-1.1-21.

Sec. 7. (a) In 2003, the auditor of state shall allocate from the family and children's property tax relief fund and a county's local match account an amount equal to the total amount of credits that are provided under this chapter for the county for that year in the same manner as the homestead credits are allocated from the property tax replacement fund under IC 6-1.1-21.

(b) The auditor of state shall distribute to each county treasurer, from the family and children's property tax relief fund and a county's local match account, the estimated distribution for that year for the county at the same time and in the same manner as the homestead credit distributions are made under IC 6-1.1-21. The money in the family and children's property tax relief fund and the county local match accounts is appropriated to make the distributions under this section. The amount of state money distributed from the family and children's property tax relief fund to pay a credit under this chapter for a county's taxpayers must be matched on a one (1) to one (1) basis by amounts deposited by the county in the county's local match account.

(c) All distributions provided under this section shall be made on warrants issued by the auditor of state drawn on the treasurer of state.

Sec. 8. To the extent it is consistent with this chapter, IC 6-1.1-21 applies with respect to the credit under this chapter.

SECTION 8. IC 6-3.1-20 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]:

**Chapter 20. Credit for Property Taxes Paid on Personal Property**

Sec. 1. As used in this chapter, "assessed value" means the assessed value determined under IC 6-1.1-3.

Sec. 2. As used in this chapter, "net ad valorem property taxes" means the amount of property taxes paid by a taxpayer for a particular calendar year after the application of all property tax deductions and property tax credits.

Sec. 3. As used in this chapter, "pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a trust;
- (4) a limited liability company; or
- (5) a limited liability partnership.

Sec. 4. As used in this chapter, "personal property" includes personal property as defined in IC 6-1.1-11 and personal property assessed under IC 6-1.1-7.

Sec. 5. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-2.1 (gross income tax);
- (2) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);
- (3) IC 6-3-8 (supplemental net income tax);
- (4) IC 6-5.5 (financial institutions tax); and
- (5) IC 27-1-18-2 (insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 6. As used in this chapter, "taxpayer" means an individual or entity that has state tax liability.

Sec. 7. (a) A taxpayer is entitled to a credit against the taxpayer's state tax liability for a taxable year for the net ad valorem property taxes paid by the taxpayer in the taxable year on personal property with an assessed value equal to the lesser of:

- (1) the assessed value of the person's personal property; or
- (2) thirty-seven thousand five hundred dollars (\$37,500).

A taxpayer is entitled to only one (1) credit under this chapter each taxable year.

(b) An affiliated group that files a consolidated return under IC 6-2.1-5-5 is entitled to only one (1) credit under this chapter each taxable year on that consolidated return. A taxpayer that is a partnership, joint venture, or pool is entitled to only one (1) credit under this chapter each taxable year, regardless of the number of partners or participants in the organization.

Sec. 8. If the amount of the credit determined under section 7 of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year. A taxpayer is not entitled to a carryback.

Sec. 9. If a pass through entity does not have state income tax liability against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

Sec. 10. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department proof of payment of an ad valorem property tax and all information that the department determines is necessary for the calculation of the credit provided by this chapter.

SECTION 9. IC 6-3.1-21-10, AS ADDED BY P.L. 273-1999, SECTION 227, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. This chapter expires December 31, ~~2001~~ 2003.

SECTION 10. IC 6-3.5-1.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The county council of any county in which the county option income tax will not be in effect on July 1 of a year under an ordinance adopted during a previous calendar year may impose the county adjusted gross income tax on the adjusted gross income of county taxpayers of its county effective July 1 of that year.

(b) Except as provided in section 2.5 or 3.5 of this chapter and in subsection (g), the county adjusted gross income tax may be imposed at a rate of one-half of one percent (0.5%), three-fourths of one percent (0.75%), or one percent (1%) on the adjusted gross income of resident county taxpayers of the county. Any county imposing the county adjusted gross income tax must impose the tax on the nonresident county taxpayers at a rate of one-fourth of one percent (0.25%) on their adjusted gross income. If the county council elects to decrease the county adjusted gross income tax, the county council may decrease the county adjusted gross income tax rate in increments of one-tenth of one percent (0.1%).

(c) To impose the county adjusted gross income tax, the county council must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The \_\_\_\_\_ County Council imposes the county adjusted gross income tax on the county taxpayers of \_\_\_\_\_ County. The county adjusted gross income tax is imposed at a rate of \_\_\_\_\_ percent (\_\_\_\_%) on the resident county taxpayers of the county and one-fourth of one percent (0.25%) on the nonresident county taxpayers of the county. This tax takes effect July 1 of this year."

(d) Any ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(e) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

(f) If the county adjusted gross income tax had previously been adopted by a county under IC 6-3.5-1 (before its repeal on March 15, 1983) and that tax was in effect at the time of the enactment of this chapter, then the county adjusted gross income tax continues in that county at the rates in effect at the time of enactment until the rates are modified or the tax is rescinded in the manner prescribed by this chapter. If a county's adjusted gross income tax is continued under

this subsection, then the tax shall be treated as if it had been imposed under this chapter and is subject to rescission or reduction as authorized in this chapter.

(g) In addition to the rates imposed under section 2.5 or 3.5 of this chapter or under subsection (b), a county council may adopt an ordinance to impose one (1) or both of the following additional county adjusted gross income tax rates:

(1) An additional rate of not more one-fourth of one percent (0.25%) may be imposed for the purposes of providing property tax relief under section 11.5(b)(1) through 11.5(b)(3) of this chapter.

(2) An additional rate of not more than one-fourth of one percent (0.25%) may be imposed for the purposes of providing local revenue that will be deposited under section 11.5(b)(4) of this chapter in the county's local match account established under IC 6-1.1-20.4. However, a county may not impose a rate under this subdivision after June 30, 2003. A rate imposed under this subdivision before July 1, 2003, is rescinded on July 1, 2003.

An additional rate imposed under his subsection shall be adopted in the manner described in subsection (c).

(h) If a county adopts an additional rate under subsection (g)(2), the additional rate shall apply to the adjusted gross income of county taxpayers and to the apportioned net income of corporations. For purposes of this subsection, "apportioned net income" means net income (as defined in IC 6-3-8-2) multiplied by:

(1) the assessed value of all property of a corporation that is:

- (A) taxable under IC 6-1.1; and
- (B) located in the county; divided by

(2) the assessed value of all property of the corporation that is:

- (A) taxable under IC 6-1.1; and
- (B) located in Indiana."

Delete pages 12 through 15.

Page 16, delete lines 1 through 8.

Page 17, between lines 23 and 24, begin a new line block indented and insert:

"(4) Depositing revenue under this chapter in the county's local match account established under IC 6-1.1-20.4 to be used for the purpose of matching state distributions for the credit under IC 6-1.1-20.4 against the net family and children's fund property tax liability of taxpayers in the county in 2003. This subdivision expires January 1, 2004."

Page 17, line 24, delete "(4)" and insert "(5)".

Page 17, line 25, delete "(3)" and insert "(4)".

Page 21, line 22, delete "; plus" and insert ".".

Page 21, delete lines 23 through 25.

Page 22, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 20. IC 6-3.5-6-9.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9.6. (a) In addition to the rates imposed under section 8 or 9 of this chapter, a county income tax council may adopt an ordinance to impose one (1) or both of the following additional county option income tax rates:

(1) An additional rate of not more than one-fourth of one percent (0.25%) may be imposed for the purposes of providing property tax relief under section 13(b)(1) through 13(b)(3) of this chapter.

(2) An additional rate of not more than one-fourth of one percent (0.25%) may be imposed for the purposes of providing local revenue that will be deposited under section 13(b)(4) of this chapter in the county's local match account established under IC 6-1.1-20.4. However, a county may not impose a rate under this subdivision after June 30, 2003. A rate imposed under this subdivision before July 1, 2003, is rescinded on July 1, 2003.

An additional rate imposed under his subsection shall be adopted in the manner described in section 8 of this chapter.

(b) If a county adopts an additional rate under subsection (a)(2), the additional rate shall apply to the adjusted gross income of county taxpayers and to the apportioned net income of corporations. For purposes of this subsection, "apportioned net income" means net

income (as defined in IC 6-3-8-2) multiplied by:

(1) the assessed value of all property of a corporation that is:

- (A) taxable under IC 6-1.1; and
- (B) located in the county; divided by

(2) the assessed value of all property of the corporation that is:

- (A) taxable under IC 6-1.1; and
- (B) located in Indiana."

Page 22, between lines 23 and 24, begin a new line block indented and insert:

"(4) Depositing revenue under this chapter in the county's local match account established under IC 6-1.1-20.4 to be used for the purpose of matching state distributions for the credit under IC 6-1.1-20.4 against the net family and children's fund property tax liability of taxpayers in the county in 2003. This subdivision expires January 1, 2004."

Page 22, line 24, delete "(4)" and insert "(5)".

Page 22, line 25, delete "(3)" and insert "(4)".

Page 24, delete lines 26 through 42.

Page 25, delete lines 1 through 22.

Page 26, line 27, delete "and, after December 31, 2002, an amount" and insert ".".

Page 26, delete line 28.

Page 26, line 29, delete "the county family and children's fund."

Page 26, line 34, delete "and, after" and insert ".".

Page 26, delete lines 35 through 37.

Page 27, delete lines 30 through 42.

Delete pages 28 through 29.

Page 30, delete lines 1 through 7.

Page 31, line 18, after "(h)" insert ",".

Page 31, line 18, strike "or".

Page 31, line 18, after "(i)," insert "or (k)".

Page 32, line 25, delete "adjusted gross" and insert "option".

Page 32, line 26, delete "the" and insert ".".

Page 32, delete lines 27 through 42, begin a new line block indented and insert:

"(1) the additional rate that is imposed under IC 6-3.5-6-9.6(a)(1) for property tax relief purposes; plus  
(2) the additional rate that is imposed under IC 6-3.5-6-9.6(a)(2) for property tax relief purposes.

(k) For a county that has adopted an ordinance under IC 6-3.5-1-11.5, the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed the sum of:

(1) one and twenty-five hundredths percent (1.25%) in the case of a county not described in subsection (h) or (i), one and thirty-five hundredths percent (1.35%) in the case of a county described in subsection (h), or one and fifty-five hundredths percent in the case of a county described in subsection (i); plus  
(2) the additional rate that is imposed under IC 6-3.5-1.1-2(g)(1) for property tax relief purposes; plus  
(3) the additional rate that is imposed under IC 6-3.5-1.1-2(g)(2) for property tax relief purposes.

SECTION 27. IC 6-1.1-20.5 IS REPEALED [EFFECTIVE JANUARY 1, 2003].

SECTION 28. [EFFECTIVE JULY 1, 2001] The credits provided under IC 6-1.1-20.4, as added by this act, apply only to property taxes first due and payable in 2003.

SECTION 29. [EFFECTIVE JANUARY 1, 2003] IC 6-3.1-20, as added by this act, applies only to taxable years that begin after December 31, 2002.

SECTION 30. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 6-3.5-1.1, a county council may adopt an ordinance to impose an additional rate or additional rates under IC 6-3.5-1.1-2(g), as added by this act, after April 1 of a year.

(b) This SECTION expires December 31, 2001.

SECTION 31. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 6-3.5-6, a county council may adopt an ordinance to impose an additional rate or additional rates under IC 6-3.5-6-9.6, as added by this act, after April 1 of a year.

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

Delete pages 33 through 58.

Page 59, delete lines 1 through 13.

Renumber all SECTIONS consecutively.

(Reference is to HB 1003 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 19, nays 3.

BAUER, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1638, 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 15, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 17. IC 7.1-1-3-18.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 18.5. "Grocery store" means any store commonly known as a:**

(1) **supermarket;**

(2) **food store; or**

(3) **grocery store.**

Page 15, delete lines 20 through 26.

Page 17, line 29, delete "Subsection" and insert "**Except as provided in section 28(d) of this chapter, subsection**".

Page 19, line 24, delete "Subsections" and insert "**Except as provided in section 28(d) of this chapter, subsections**".

Page 21, line 40, delete "that may" and insert ".".

Page 21, delete lines 41 through 42.

Page 22, delete lines 1 through 3.

Page 22, line 4, delete "prohibit this type of fee."

Page 21, run in line 40 through page 22, line 4.

Page 22, between lines 5 and 6, begin a new paragraph and insert: "SECTION 27. IC 7.1-3-1-25, AS AMENDED BY P.L.136-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **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 in accordance with IC 7.1-3-4-6(c), IC 7.1-3-9-9(c), IC 7.1-3-14-4(c), and 905 IAC 1-29 but may not include at-home delivery of alcoholic beverages.

(g) A city listed in this subsection that owns a marina may be issued a permit for the retail sale of alcoholic beverages on the premises of the marina. The permit may include the carryout sale of alcoholic beverages in accordance with IC 7.1-3-4-6(c), IC 7.1-3-9-9(c), IC 7.1-3-14-4(c), and 905 IAC 1-29 but may not include at-home delivery of alcoholic beverages. However, the city must apply for and secure the necessary permits that this title requires. This subsection applies to the following cities:

(1) A city having a population of more than 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.

(i) A city that:

(1) **has a population of more than twenty-seven thousand (27,000) but less than thirty thousand (30,000); and**

(2) **has a department of parks and recreation that owns or leases any:**

(A) **stadium;**

(B) exhibition hall;

(C) marina; or

(D) golf course clubhouse or community center;

may permit the retail sale of alcoholic beverages upon the premises of its department of parks and recreation owned or leased properties if the governing board of the department of parks and recreation first applies for and secures the necessary permits required by this title. The permit may include the carryout sale of alcoholic beverages in accordance with IC 7.1-3-4-6(c), IC 7.1-3-9-9(c), and 905 IAC 1-29 but may not include at-home delivery of alcoholic beverages."

Page 22, line 13, delete "posted a" and insert "provided".

Page 22, line 15, delete "The" and insert "Except as provided in subsection (d), the".

Page 22, line 18, delete "beer".

Page 22, line 18, after "retailer's" insert "or dealer's".

Page 22, between lines 29 and 30, begin a new paragraph and insert:

"(d) This subsection applies to a county having a consolidated city. If the application is for a permit for a location that is not located within the boundaries of the special fire service district, as determined in conformity with IC 7.1-3-22-8, the applicant may:

(1) post notice of the application as set forth in subsection (c);

or

(2) mail notice in accordance with:

(A) section 5.5 of this chapter if the application is for a new permit or transfer of a permit; or

(B) section 5.6 of this chapter if the application is for renewal of a permit."

Page 29, line 5, delete "1971," and insert "1971+."

Page 29, line 12, delete "1971," and insert "1971+."

Page 29, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 41. IC 7.1-4-1-44 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 44. The commission may not charge an annual registration fee for a primary source of supply (as defined in IC 7.1-1-3-32.5), is one hundred dollars (\$100):"

Page 29, line 18, delete "the following" and insert "an annual registration of a primary source of supply (as defined in IC 7.1-1-3-32.5)".

Page 29, line 18, delete ":" and insert ".".

Page 29, delete lines 19 through 21, begin a new paragraph and insert:

"Sec. 2. The fee for a supplemental caterer's permit is five dollars (\$5) per event."

Page 29, line 22, delete "2" and insert "3".

Page 29, line 28, delete "3" and insert "4".

Page 29, line 31, delete "4" and insert "5".

Page 30, line 4, delete "5" and insert "6".

Page 30, line 9, delete "6" and insert "7".

Page 30, between lines 11 and 12, begin a new line blocked left and insert "is fifty dollars (\$50) if the need for the letter of extension, or renewal, is occasioned by the act or omission of the permittee. The commission shall waive the fee for a letter of extension, and a renewal, if the need for the letter of extension, or renewal, is occasioned by the act or omission of the commission, a local board, or a third party unrelated to the permittee involved and not employed by the permittee or under the control of the permittee."

Page 30, delete line 12.

Page 30, line 13, delete "7" and insert "8".

Page 30, line 15, delete "8" and insert "9".

Page 31, line 2, delete ", only liquor,".

Page 31, line 3, delete ":".

Page 31, line 4, delete "(A)".

Page 31, line 4, delete ";" and insert ".".

Page 31, delete lines 5 through 6.

Page 31, line 17, delete "9" and insert "10".

Page 31, line 20, delete "10" and insert "11".

Page 31, line 23, delete "11" and insert "12".

Page 31, line 42, delete "12" and insert "13".

Page 32, line 8, delete "13" and insert "14".

Page 32, line 9, delete "." and insert "for the manufacture of more

than twenty thousand (20,000) barrels of beer in a calendar year."

Page 32, line 17, delete "14" and insert "15".

Page 32, line 17, delete "two" and insert "five".

Page 32, line 17, after "hundred" insert "dollars (\$500)".

Page 32, delete line 18.

Page 32, between lines 18 and 19, begin a new paragraph and insert:

"Sec. 16. The annual fee for a brewer's permit for the manufacture of not more than twenty thousand (20,000) barrels of beer in a calendar year is five hundred dollars (\$500).

SECTION 43. IC 7.1-4-6-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2.1. (a) The department shall adopt rules and regulations under IC 4-22-2 to govern the assessment and collection of penalties provided in IC 7.1-4-6-2.

(b) The commission may adopt rules under IC 4-22-2 to coordinate compliance with the laws, rules, and administrative policies governing the assessment and collection of sales taxes."

Page 32, line 27, after "under" insert "IC 7.1-2-5-3, IC 7.1-2-5-8".

Page 32, line 35, delete "1971," and insert "1971+."

Page 33, line 7, delete "1971," and insert "1971+."

Page 33, line 8, delete "1971," and insert "1971+."

Page 33, delete lines 11 through 21.

Page 35, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 55. IC 7.1-5-8-4, AS AMENDED BY P.L.136-2000, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) It is unlawful for a person who owns or operates a private or public restaurant or place of public or private entertainment to permit another person to come into the establishment with an alcoholic beverage for sale or gift, or for consumption in the establishment by that person or another, or to serve a setup to a person who comes into the establishment. However, the provisions of this section shall not apply to the following:

(1) A private room hired by a guest of a bona fide club or hotel that holds a retail permit.

(2) A facility that is used in connection with the operation of a paved track of more than two (2) miles in length that is used primarily in the sport of auto racing.

(b) An establishment operated in violation of this section is declared to be a public nuisance and subject to abatement as other public nuisances are abated under the provisions of this title.

SECTION 56. IC 7.1-5-8-5, AS AMENDED BY P.L.136-2000, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) This section does not apply to a person who, on or about a licensed premises, carries, conveys, or consumes beer or wine:

(1) described in IC 7.1-1-2-3(a)(4); and

(2) not sold or offered for sale.

(b) This section does not apply to a person at a facility that is used in connection with the operation of a paved track more than two (2) miles in length that is used primarily in the sport of auto racing.

(c) It is a Class C misdemeanor for a person, for the person's own use, to knowingly carry on, convey to, or consume on or about the licensed premises of a permittee, an alcoholic beverage that was not then and there purchased from that permittee.

SECTION 57. IC 7.1-5-11-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1.5. (a) Except as provided in subsection (c), it is unlawful for a person in the business of selling alcoholic beverages in another state or country to ship or cause to be shipped an alcoholic beverage directly to an Indiana resident who does not hold a valid wholesaler permit under this title. This includes the ordering and selling of alcoholic beverages over a computer network (as defined by IC 35-43-2-3(a)).

(b) Upon a determination by the commission that a person has violated subsection (a), a wholesaler may not accept a shipment of alcoholic beverages from the person for a period of up to one (1) year as determined by the commission.

(c) A primary source may sell and ship or have shipped not more than two (2) cases of wine during a calendar year from the location described in the primary source's basic permit from the federal

**Bureau of Alcohol, Tobacco, and Firearms to an adult resident of Indiana if the following conditions are met:**

- (1) **A primary source must ensure that the person purchasing the wine is:**
- (A) **a resident of Indiana; and**
  - (B) **at least twenty-one (21) years of age.**
- (2) **The person purchasing the wine is physically at the location described in the basic permit from the federal Bureau of Alcohol, Tobacco, and Firearms at the time of purchase.**
- (3) **The invoice of the sale accompanies the shipment and contains the following:**
- (A) **The primary source's name, address, and federal Bureau of Alcohol, Tobacco, and Firearms basic permit number.**
  - (B) **The name and address of the Indiana resident to whom the sale is being made and address where the wine is being shipped.**
  - (C) **The method used by the primary source to ensure that the person purchasing the wine is at least twenty-one (21) years of age and a resident of Indiana on the date of the purchase.**
  - (D) **A notarized affidavit signed by the person making the purchase stating that the wine is being shipped to and used for personal consumption by the person making the purchase.**
- (d) **The commission shall adopt rules under IC 4-22-2 to implement this section."**
- Page 36, line 1, delete "The" and insert "**For the**".
- Page 36, line 10, delete "the civil penalty is imposed" and insert "**final judgment**".
- Page 41, line 15, strike "as a means of promoting, advertising, or marketing the" and insert ".".
- Page 41, strike line 16.
- Page 41, between lines 25 and 26, begin a new paragraph and insert:
- "SECTION 66. IC 35-46-1-10.2, AS AMENDED BY P.L.14-2000, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10.2. (a) A retail establishment that sells or distributes tobacco to a person less than eighteen (18) years of age commits a Class C infraction. For a sale to take place under this section, the buyer must pay the retail establishment for the tobacco product. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:
- (1) If the retail establishment at that specific business location has not been issued a citation or summons for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars (\$50).
  - (2) If the retail establishment at that specific business location has had one (1) citation or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of one hundred dollars (\$100).
  - (3) If the retail establishment at that specific business location has had two (2) citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of two hundred fifty dollars (\$250).
  - (4) If the retail establishment at that specific business location has had three (3) or more citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of five hundred dollars (\$500).
- A retail establishment may not be issued a citation or summons for a violation of this section more than once every twenty-four (24) hours for each specific business location.
- (b) It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the tobacco.
- (c) The following defenses are available to a retail establishment accused of selling or distributing tobacco to a person who is less than eighteen (18) years of age:
- (1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph showing that the purchaser or recipient was of legal age to make the purchase.

- (2) The buyer or recipient produced a photographic identification card issued under IC 9-24-16-1 or a similar card issued under the laws of another state or the federal government showing that the purchaser or recipient was of legal age to make the purchase.
  - (3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.
  - (d) It is a defense that the accused retail establishment sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:
    - (1) agriculture;
    - (2) processing;
    - (3) transporting;
    - (4) wholesaling; or
    - (5) retailing.
  - (e) As used in this section, "distribute" means to give tobacco to another person. ~~as a means of promoting, advertising, or marketing the tobacco to the general public.~~
  - (f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a retail establishment that sells or distributes tobacco is not liable for a violation of this section unless the person less than eighteen (18) years of age who bought or received the tobacco is issued a citation or summons under section 10.5 of this chapter.
  - (g) Notwithstanding IC 34-28-5-4(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund (IC 7.1-6-2-6)."
- Page 42, delete lines 14 through 42, begin a new paragraph and insert:
- "SECTION 68. IC 35-46-1-11.3, AS AMENDED BY P.L.177-1999, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11.3. (a) This section does not apply to advertisements that are less than fourteen (14) square feet and posted:
- (1) at street level in the window or on the exterior of a business property or establishment where tobacco products are manufactured, distributed, or sold; or
  - (2) on vehicles.
- (b) ~~After May 13, 1999,~~ A person may not advertise or cause to be advertised tobacco products on a billboard or an outdoor advertisement ~~that where the tobacco advertising~~ occupies an area that exceeds fourteen (14) square feet, including any advertisement that functions as a segment of a larger tobacco advertising unit or series. **The Indiana alcoholic beverage commission may adopt rules under IC 4-22-2 to determine how to measure the tobacco product advertising on a sign that contains both tobacco product advertising and advertising that is not tobacco related. The rules may not allow the frame of the sign or other structural parts that only serve to support the sign to be included in the tobacco advertising measurement.**
- (c) A person who violates this section commits a Class C infraction. An advertisement that is in violation of this section must be removed not more than ten (10) days after a citation or summons has been issued. Notwithstanding IC 34-28-5-4(c), if an advertisement that is in violation of this section is not removed not more than ten (10) days after a citation or summons has been issued, a civil judgment for an infraction committed under this section must include a civil penalty of one hundred dollars (\$100) for each day that the advertisement was in violation of this section.
- (d) Notwithstanding IC 34-28-5-4(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund (IC 7.1-6-2-6)."
- Page 43, delete lines 1 through 8.
- Page 44, line 9, delete "7.1-4-1.1, as amended" and insert "**7.1-4-4.1, as added**".
- Page 44, line 11, delete "7.1-4-1.1-6" and insert "**7.1-4-4.1-5**".
- Renumber all SECTIONS consecutively.

(Reference is to HB 1638 as introduced.)  
and when so amended that said bill do pass.  
Committee Vote: yeas 12, nays 1.

KUZMAN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1857, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

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

"SECTION 1. IC 4-6-10-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. The attorney general shall submit an annual report to the select joint committee on Medicaid Oversight by November 1 of each year on the state medicaid fraud control unit's activities during the preceding year. The report must include the following:

- (1) The number of incidents reported to the attorney general under this chapter.
- (2) The number of incidents investigated by the attorney general under this chapter.
- (3) The number of incidents found by the attorney general to have merit.
- (4) The projected amount of money spent on investigating and prosecuting an incident.
- (5) The projected amount of money recovered through an investigation or prosecution of an incident.
- (6) The estimated and projected cost of investigating and prosecuting incidents under this chapter for the following year.

SECTION 2. IC 12-7-2-57.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001] Sec. 57.3. "Delivery system", as used in IC 12-15-12-14 and IC 12-17.6-4-8, means a system of:

- (1) a hospital licensed under IC 16-21; and
- (2) primary medical providers;

that provides services under the Medicaid risk-based managed care program to enrollees in Medicaid or the children's health insurance program.

SECTION 3. IC 12-7-2-85.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001] Sec. 85.1. "Federal supply schedule", for purposes of IC 12-15-31-5, has the meaning set forth in IC 12-15-31-5(a).

SECTION 4. IC 12-7-2-169.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001] Sec. 169.7. "Risk-based managed care program", as used in IC 12-15 and IC 12-17.6, refers to a program offered by the office in which the office contracts with a health maintenance organization licensed under IC 27-13 to provide covered services to an enrollee in Medicaid or the children's health insurance program.

SECTION 5. IC 12-13-5-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13. (a) The division shall establish a fraud control unit to investigate and prosecute claims of any violation, abuse, or fraud by recipients of:

- (1) Medicaid under IC 12-15;
- (2) Cash assistance under the temporary assistance for needy people (TANF) under 45 CFR 260 et. seq; and
- (3) food stamps under 7 U.S.C. 2016(i).

(b) The division shall submit an annual report to the select joint committee on Medicaid Oversight by November 1 of each year on the fraud control unit's activities during the preceding year. The report must include the following:

- (1) The number of incidents reported to the division's fraud control unit of possible violations, abuse, or fraud by recipients of:
  - (A) Medicaid;
  - (B) TANF; and

(C) food stamps.

(2) The number of incidents investigated by the division's fraud control unit of possible violations, abuse, or fraud by recipients of:

- (A) Medicaid;
- (B) TANF; and
- (C) food stamps.

(3) The number of incidents found by the division's fraud control unit to have merit.

(4) The projected amount of money spent by the division's fraud control unit on investigating and prosecuting an incident.

(5) The projected amount of money recovered through an investigation or prosecution of an incident.

(6) The estimated and projected cost of investigating and prosecuting incidents under this section for the following year.

SECTION 6. IC 12-15-1-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13.5. (a) The office shall conduct an annual evaluation and submit an annual report to the select joint committee on Medicaid Oversight by November 1 of each year on a data analysis of information collected by the office:

- (1) by category of services provided;
- (2) by provider; and
- (3) by recipient;

that can be used to educate the office and determine any possible cost containment measures that may be adopted and implemented for the state's Medicaid program.

(b) The office shall contract with an independent organization to conduct the evaluation and submit the report described in subsection (a). The office shall cooperate with the independent organization in supplying the organization with the data necessary to complete the report.

(c) This section does not modify the requirements of other statutes relating to the confidentiality of medical records.

SECTION 7. IC 12-15-12-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13. (a) This section applies to a Medicaid recipient who is required to be enrolled in a Medicaid managed care program.

(b) Beginning September 1, 2001, the office shall, where permitted by federal law, require a new recipient described in subsection (a) to enroll in the risk-based managed care program.

(c) An individual described in subsection (a) who enrolls in the primary care case management program before September 1, 2001, may remain in the primary care case management program. However, if the individual changes primary medical providers after August 31, 2001, the office shall, where permitted by federal law, require the individual to enroll in the risk-based managed care program.

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

SECTION 8. IC 12-15-12-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14. (a) This section applies whenever the office transitions the assignment of enrollees from the primary care case management program to the risk-based managed care program under section 13 of this chapter.

(b) A managed care contractor shall establish the terms and conditions that must be met by a delivery system wishing to enter into an agreement with the managed care contractor. The terms and conditions may not unreasonably discriminate against or among delivery systems. For the purposes of this section, differences in price produced by a process of individual negotiation or price differences among other delivery systems in different geographic areas or different specialties constitutes unreasonable discrimination. Upon request by a delivery system, the managed care contractor shall make available to the delivery system a written statement of the terms and conditions that must be met by a delivery system wishing to enter into an agreement with the managed care contractor.

(c) A delivery system willing to meet the terms and conditions of an agreement described in subsection (b) may not be denied the right

to enter into an agreement with the managed care contractor. If a managed care contractor denies a delivery system the right to enter into an agreement with the managed care contractor on the grounds that the delivery system does not satisfy the terms and conditions established by the managed care contractor, the managed care contractor shall provide the delivery system with a written notice that:

- (1) explains the basis of the managed care contractor's denial; and
  - (2) states the specific terms and conditions that the delivery system does not satisfy.
- (d) A cause of action shall not arise against a managed care contractor for:
- (1) disclosing information as required by this section; or
  - (2) the subsequent use of the information by unauthorized individuals.

SECTION 9. IC 12-15-31-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001] Sec. 5. (a) As used in this section, "federal supply schedule" refers to the price catalog containing goods available for purchase by federal agencies, as published by the United States General Services Administration.

(b) The office shall reimburse pharmacy providers for covered legend drugs at the lowest of the following:

- (1) The price listed for the drug on the federal supply schedule as of the date of dispensing, plus any applicable Medicaid dispensing fee.
- (2) The maximum allowable cost (MAC) of the drug as determined by the Health Care Financing Administration under 42 CFR 447.332 as of the date of dispensing, plus any applicable Medicaid dispensing fee.
- (3) The provider's submitted charge, representing the provider's usual and customary charge for the drug, as of the date of dispensing.

SECTION 10. IC 12-15-35-34.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 34.5. Before January 1, 2003, the office shall establish and maintain an automated system for the prior approval of prescription drugs that meets the following requirements:

- (1) The system must allow a provider who writes a prescription to request prior approval for a prescription drug by telephone.
- (2) The system must be capable of receiving and processing multiple telephone requests simultaneously and grant or deny prior approval in a timely manner.
- (3) If prior approval is granted, the system must immediately update the Medicaid recipient's records to indicate prior approval has been granted for the prescription.
- (4) If prior approval is denied, the system must allow the provider the option to speak with a representative of the office concerning the denial.
- (5) The system must allow a pharmacist to determine by telephone that the recipient's prescription has been granted prior approval.

(b) The office shall adopt rules under IC 4-22-2 to require a provider who writes a prescription to obtain prior approval for the prescription drug before giving the recipient the prescription for the drug.

SECTION 11. IC 12-15-35-35, AS AMENDED BY P.L.231-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 35. (a) As used in this section, "single source drug" means a covered outpatient drug that is produced or distributed under an original new drug application approved by the federal Food and Drug Administration, including a drug product marketed by any cross-licensed producers or distributors operating under the new drug application.

(b) Before the board develops a program to place a single source drug on prior approval, restrict the drug in its use, or establish a drug monitoring process or program to measure or restrict utilization of single source drugs other than in the SURS program, the board must meet the following conditions:

- (1) Make a determination, after considering evidence and

credible information provided to the board by the office and the public, that placing a single source drug on prior approval or restricting the drug's use will not:

- (A) impede the quality of patient care in the Medicaid program; or
  - (B) increase costs in other parts of the Medicaid program, including hospital costs and physician costs.
- (2) Meet to review a formulary or a restriction on a single source drug after the office provides at least thirty (30) days notification to the public that the board will review the formulary or restriction on a single source drug at a particular board meeting. The notification shall contain the following information:
- (A) A statement of the date, time, and place at which the board meeting will be convened.
  - (B) A general description of the subject matter of the board meeting.
  - (C) An explanation of how a copy of the formulary to be discussed at the meeting may be obtained.

The board shall meet to review the formulary or the restriction on a single source drug at least thirty (30) days but not more than sixty (60) days after the notification.

(3) Ensure that:

- (A) there is access to at least ~~two~~ **(2) one (1)** alternative ~~drugs drug~~ within each therapeutic classification, if available, on the formulary; and
- (B) a process is in place through which a Medicaid recipient has access to medically necessary drugs.

(4) ~~Reconsider the drug's removal from its restricted status or from prior approval not later than six (6) months after the single source drug is placed on prior approval or restricted in its use.~~

(5) Ensure that the program provides either telephone or FAX approval or denial Monday through Friday, twenty-four (24) hours a day. The office must provide the approval or denial within twenty-four (24) hours after receipt of a prior approval request. The program must provide for the dispensing of at least a seventy-two (72) hour supply of the drug in an emergency situation or on weekends.

(6) (5) Ensure that any prior approval program or restriction on the use of a single source drug is not applied to prevent acceptable medical use for appropriate off-label indications.

(c) The board shall advise the office on the implementation of any program to restrict the use of brand name multisource drugs.

(d) The board shall consider:

- (1) health economic data;
- (2) cost data; and
- (3) the use of formularies in the non-Medicaid markets;

in developing its recommendations to the office.

SECTION 12. IC 12-15-35-45, AS AMENDED BY P.L.231-1999, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 45. (a) The chairman of the board, subject to the approval of the board members, ~~may~~ **shall** appoint an advisory committee to make recommendations to the board on the development of a Medicaid outpatient drug formulary.

(b) ~~If~~ The office ~~decides to~~ **shall** establish a Medicaid outpatient drug formulary **and** the formulary shall be developed by the board.

(c) A formulary used by a Medicaid managed care organization is subject to sections 46 and 47 of this chapter.

SECTION 13. IC 12-15-35-46, AS ADDED BY P.L.231-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 46. (a) This section applies to a managed care organization that enters into an initial contract with the office to be a Medicaid managed care organization after May 13, 1999.

(b) Before a Medicaid managed care organization described in subsection (a) implements a formulary, the managed care organization shall submit the formulary to the office at least thirty-five (35) days before the date that the managed care organization implements the formulary for Medicaid recipients.

(c) The office shall forward the formulary to the board for the board's review and recommendation.

(d) The office shall provide at least thirty (30) days notification to

the public that the board will review a Medicaid managed care organization's proposed formulary at a particular board meeting. The notification shall contain the following information:

- (1) A statement of the date, time, and place at which the board meeting will be convened.
- (2) A general description of the subject matter of the board meeting.
- (3) An explanation of how a copy of the formulary to be discussed may be obtained.

The board shall meet to review the formulary at least thirty (30) days but not more than sixty (60) days after the notification.

- (e) In reviewing the formulary, the board shall do the following:
  - (1) Make a determination, after considering evidence and credible information provided to the board by the office and the public, that the use of the formulary will not:
    - (A) impede the quality of patient care in the Medicaid program; or
    - (B) increase costs in other parts of the Medicaid program, including hospital costs and physician costs.
  - (2) Make a determination that:
    - (A) there is access to at least ~~two~~ (2) **one** (1) alternative ~~drugs~~ **drug** within each therapeutic classification, if available, on the formulary;
    - (B) a process is in place through which a Medicaid member has access to medically necessary drugs; and
    - (C) the managed care organization otherwise meets the requirements of IC 27-13-38.
- (f) The board shall consider:
  - (1) health economic data;
  - (2) cost data; and
  - (3) the use of formularies in the non-Medicaid markets;

in developing its recommendation to the office.

(g) Within thirty (30) days after the board meeting, the board shall make a recommendation to the office regarding whether the proposed formulary should be approved, disapproved, or modified.

(h) The office shall rely significantly on the clinical expertise of the board. If the office does not agree with the recommendations of the board, the office shall, at a public meeting, discuss the disagreement with the board and present any additional information to the board for the board's consideration. The board's consideration of additional information must be conducted at a public meeting.

(i) Based on the final recommendations of the board, the office shall approve, disapprove, or require modifications to the Medicaid managed care organization's proposed formulary. The office shall notify the managed care organization of the office's decision within fifteen (15) days of receiving the board's final recommendation.

(j) The managed care organization must comply with the office's decision within sixty (60) days after receiving notice of the office's decision.

(k) Notwithstanding the other provisions of this section, the office may temporarily approve a Medicaid managed care organization's proposed formulary pending a final recommendation from the board.

**SECTION 14. IC 12-17.6-4-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) This section applies to a child enrolled in the program established under this article.**

**(b) Beginning September 1, 2001, the office shall, where permitted by federal law, require a new recipient described in subsection (a) to enroll in the risk-based managed care program.**

**(c) An individual described in subsection (a) who enrolls in the primary care case management program before September 1, 2001, may remain in the primary care case management program. However, if the individual changes primary medical providers after August 31, 2001, the office shall, where permitted by federal law, require the individual to enroll in the risk-based managed care program.**

**(d) The office may adopt rules under IC 4-22-2 to implement this section.**

**SECTION 15. IC 12-17.6-4-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) This section applies whenever the office**

**transitions the assignment of enrollees from the primary care case management program to the risk-based managed care program under section 7 of this chapter.**

**(b) A managed care contractor shall establish the terms and conditions that must be met by a delivery system wishing to enter into an agreement with the managed care contractor. The terms and conditions may not unreasonably discriminate against or among delivery systems. For the purposes of this section, differences in price produced by a process of individual negotiation or price differences among other delivery systems in different geographic areas or different specialties constitutes unreasonable discrimination. Upon request by a delivery system, the managed care contractor shall make available to the delivery system a written statement of the terms and conditions that must be met by a delivery system wishing to enter into an agreement with the managed care contractor.**

**(c) A delivery system willing to meet the terms and conditions of an agreement described in subsection (b) may not be denied the right to enter into an agreement with the managed care contractor. If a managed care contractor denies a delivery system the right to enter into an agreement with the managed care contractor on the grounds that the delivery system does not satisfy the terms and conditions established by the managed care contractor, the managed care contractor shall provide the delivery system with a written notice that:**

- (1) explains the basis of the managed care contractor's denial; and**
- (2) states the specific terms and conditions that the delivery system does not satisfy.**

**(d) A cause of action shall not arise against a managed care contractor for:**

- (1) disclosing information as required by this section; or**
- (2) the subsequent use of the information by unauthorized individuals."**

Page 1, line 14, after "(a)" insert "Except as provided in subsection (d),".

Page 1, line 14, delete "If" and insert "if".

Page 2, after line 14, begin a new paragraph and insert:

**"(d) If a prescription is filled under the Medicaid program, before a practitioner writes "Brand Medically Necessary" on the form or indicates that the pharmacist may not substitute a generically equivalent drug product, the practitioner must receive prior approval for the drug product from the office of Medicaid policy and planning.**

**SECTION 17. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "waiver" means a Section 1915(b) freedom of choice waiver under the federal Social Security Act (42 U.S.C. 1315).**

**(b) Before July 1, 2001, the office of Medicaid policy and planning established by IC 12-15-1-1 shall apply to the United States Department of Health and Human Services for approval of an amendment to the state Medicaid plan or waiver to implement IC 12-15-12-13 and IC 12-17.6-4-8, both as added by this act.**

**(c) If a provision of this SECTION differs from the requirements of a state plan or waiver amendment, the office shall submit the amendment request in a manner that complies with the requirements of the amendment. However, after the amendment is approved, the office shall apply within one hundred twenty (120) days for an amendment to the approved amendment that contains the provisions of this SECTION that were not included in the approved amendment.**

**(d) The office of Medicaid policy and planning may not implement the amended state plan or waiver until the office files an affidavit with the governor attesting that the federal amendment applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the amendment is approved.**

**(e) If the office of Medicaid policy and planning receives approval of an amendment under this SECTION from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (d), the office shall implement the amendment not more than sixty (60) days after the governor receives the affidavit.**

**(f) The office of Medicaid policy and planning may adopt rules**

under IC 4-22-2 that are necessary to implement this SECTION.

(g) This SECTION expires July 1, 2005.

SECTION 18. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to HB 1857 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 21, nays 3.

BAUER, Chair

Report adopted.

## HOUSE BILLS ON SECOND READING

### House Bill 1116

Representative Lytle called down House Bill 1116 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1117

Representative Lytle called down House Bill 1117 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 1117-1)

Mr. Speaker: I move that House Bill 1117 be amended to read as follows:

Page 6, after line 25, begin a new subparagraph and insert:

**"(13) Permission to a city having a population of more than twenty-three thousand five hundred (23,500) but less than twenty-four thousand (24,000) to increase its levy in excess of the limitations established under section 3 of this chapter if:**

**(A) an appeal was granted to the city under subdivision (1) in 1998, 1999, and 2000; and**

**(B) the increase has been approved by the legislative body of the city, and the legislative body of the city has by resolution determined that the increase is necessary to pay normal operating expenses.**

**The maximum amount of the increase is equal to the amount of property tax replacement credits under IC 6-3.5-1.1 that the city petitioned to have reallocated in 2001 under subdivision (1) for a purpose other than property tax relief."**

(Reference is to HB1117 as printed February 13, 2001.)

ULMER

Motion prevailed. The bill was ordered engrossed.

### House Bill 1365

Representative Weinzapfel called down House Bill 1365 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1492

Representative Wolkins called down House Bill 1492 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 1492-1)

Mr. Speaker: I move that House Bill 1492 be amended to read as follows:

Delete the title and insert the following:

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

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

"SECTION 1. IC 13-27.5-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) The board consists of ~~twelve (12)~~ **thirteen (13)** members.

(b) The commissioner and the president of the Indiana economic development council established under IC 4-3-14 shall serve as ex officio nonvoting members of the board. The commissioner or the president may in writing designate a technical representative to serve as a nonvoting member of the board when the commissioner or the

president is absent from a meeting of the board.

(c) The governor shall appoint ~~ten (10)~~ **eleven (11)** members of the board as follows:

(1) Two (2) representatives of public or private universities in Indiana, one (1) of whom must have expertise in occupational health and the workplace environment.

(2) Three (3) representatives of manufacturers, including one (1) representative of small manufacturers.

(3) One (1) representative of a statewide environmental organization.

(4) One (1) representative of organized labor.

(5) One (1) representative of the public.

(6) One (1) representative of county government.

(7) One (1) representative of municipal government.

**(8) One (1) representative who must have expertise in occupational health and the workplace environment.**

(d) To be appointed as a member of the board under subsection (c), an individual must demonstrate a knowledge of policy or of technical matters concerning multimedia clean manufacturing.

(e) Neither individual appointed to the board under subsection (c)(1) may represent a university that is selected to establish the Indiana clean manufacturing technology and safe materials institute under IC 13-27.5-3.

SECTION 2. IC 13-27.5-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) The term of office of an appointed member of the board:

(1) is four (4) years; and

(2) continues until the member's successor is appointed and qualified.

~~(b) An appointed member of the board may not serve more than two (2) consecutive terms.~~

~~(c) (b) If a vacancy occurs in the appointed membership of the board, the governor shall appoint a member to fill the vacancy for the remainder of the unexpired term and to serve at the pleasure of the governor.~~

SECTION 3. IC 13-27.5-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) The board shall meet at least quarterly.

(b) The meetings of the board shall be ~~open to the public under held in accordance with IC 5-14-1.5.~~

~~(c) The chairperson of the board shall cause a notice of a meeting to be published as follows:~~

~~(1) One (1) time in two (2) daily newspapers in the county in which the public meeting will take place; subject to the requirements in IC 5-3-1-4.~~

~~(2) One (1) time in the Indiana Register.~~

~~(d) The chairperson of the board shall include in the notice required under subsection (c) the following:~~

~~(1) A statement of the date, time, and place at which the public meeting will be convened;~~

~~(2) A general description of the subject matter to be discussed at the meeting.~~

~~(e) The chairperson of the board must comply with the publication requirements in subsection (c) at least twenty-one (21) days before the public meeting is convened."~~

Renumber all SECTIONS consecutively.

(Reference is to HB 1492 as printed February 9, 2001.)

WEINZAPFEL

Motion prevailed.

#### HOUSE MOTION (Amendment 1492-2)

Mr. Speaker: I move that House Bill 1492 be amended to read as follows:

Page 2, line 5, after "government," insert "one of whom may be a solid waste management district director".

Page 2, line 5, before "not" insert "and".

(Reference is to House Bill 1492 as printed February 9, 2001.)

KRUZAN

Motion prevailed. The bill was ordered engrossed.

**House Bill 1499**

Representative Bauer called down House Bill 1499 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 1499-1)

Mr. Speaker: I move that House Bill 1499 be amended to read as follows:

Page 23, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 23. IC 6-1.1-12.1-4.5, AS AMENDED BY P.L.4-2000, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 4.5. (a) For purposes of this section, "personal property" means personal property other than inventory (as defined in IC 6-1.1-3-11(a)).

(b) An applicant must provide a statement of benefits to the designating body. The applicant must provide the completed statement of benefits form to the designating body before the hearing specified in section 2.5(c) of this chapter or before the installation of the new manufacturing equipment or new research and development equipment, or both, for which the person desires to claim a deduction under this chapter. The state board of tax commissioners shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

(1) A description of the new manufacturing equipment or new research and development equipment, or both, that the person proposes to acquire.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment;

an estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the installation of the new manufacturing equipment or new research and development equipment, or both, and an estimate of the annual salaries of these individuals.

(3) An estimate of the cost of the new manufacturing equipment or new research and development equipment, or both.

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, an estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products by the new manufacturing equipment.

With the approval of the state board of tax commissioners, the statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

(c) The designating body must review the statement of benefits required under subsection (b). The designating body shall determine whether an area should be designated an economic revitalization area or whether the deduction shall be allowed, based on (and after it has made) the following findings:

(1) Whether the estimate of the cost of the new manufacturing equipment or new research and development equipment, or both, is reasonable for equipment of that type.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment;

whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the installation of the new manufacturing equipment or new research and development equipment, or both.

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be

retained can be reasonably expected to result from the proposed installation of new manufacturing equipment or new research and development equipment, or both.

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, whether the estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products can be reasonably expected to result from the installation of the new manufacturing equipment.

(5) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed installation of new manufacturing equipment or new research and development equipment, or both.

(6) Whether the totality of benefits is sufficient to justify the deduction.

The designating body may not designate an area an economic revitalization area or approve the deduction unless it makes the findings required by this subsection in the affirmative.

(d) Except as provided in subsection (f), an owner of new manufacturing equipment whose statement of benefits is approved before May 1, 1991, is entitled to a deduction from the assessed value of that equipment for a period of five (5) years. Except as provided in subsections (f) and (i), an owner of new manufacturing equipment or new research and development equipment, or both, whose statement of benefits is approved after June 30, 2000, is entitled to a deduction from the assessed value of that equipment for the number of years determined by the designating body under subsection (h). Except as provided in subsections (f) and (g) and in section 2(i)(3) of this chapter, the amount of the deduction that an owner is entitled to for a particular year equals the product of:

(1) the assessed value of the new manufacturing equipment or new research and development equipment, or both, **in the year that the equipment is installed for that particular assessment year**; multiplied by

(2) the percentage prescribed in the table set forth in subsection (e).

(e) The percentage to be used in calculating the deduction under subsection (d) is as follows:

(1) For deductions allowed over a one (1) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd and thereafter	0%

(2) For deductions allowed over a two (2) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	50%
3rd and thereafter	0%

(3) For deductions allowed over a three (3) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	66%
3rd	33%
4th and thereafter	0%

(4) For deductions allowed over a four (4) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	75%
3rd	50%
4th	25%
5th and thereafter	0%

(5) For deductions allowed over a five (5) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	80%
3rd	60%
4th	40%
5th	20%
6th and thereafter	0%

(6) For deductions allowed over a six (6) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	66%
4th	50%
5th	34%
6th	25%
7th and thereafter	0%

(7) For deductions allowed over a seven (7) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	71%
4th	57%
5th	43%
6th	29%
7th	14%
8th and thereafter	0%

(8) For deductions allowed over an eight (8) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	75%
4th	63%
5th	50%
6th	38%
7th	25%
8th	13%
9th and thereafter	0%

(9) For deductions allowed over a nine (9) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	77%
4th	66%
5th	55%
6th	44%
7th	33%
8th	22%
9th	11%
10th and thereafter	0%

(10) For deductions allowed over a ten (10) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	90%
3rd	80%
4th	70%
5th	60%
6th	50%
7th	40%
8th	30%
9th	20%
10th	10%
11th and thereafter	0%

(f) Notwithstanding subsections (d) and (e), a deduction under this section is not allowed in the first year the deduction is claimed for new manufacturing equipment or new research and development equipment, or both, to the extent that it would cause the assessed value of all of the personal property of the owner in the taxing district in which the equipment is located (excluding personal property that is assessed as construction in process) to be less than the assessed value of all of the personal property of the owner in that taxing district (excluding personal property that is assessed as construction in process) in the immediately preceding year.

(g) If a deduction is not fully allowed under subsection (f) in the first year the deduction is claimed, then the percentages specified in subsection (d) or (e) apply in the subsequent years to the amount of deduction that was allowed in the first year.

(h) For an economic revitalization area designated before July 1, 2000, the designating body shall determine whether a property owner whose statement of benefits is approved after April 30, 1991, is

entitled to a deduction for five (5) or ten (10) years. For an economic revitalization area designated after June 30, 2000, the designating body shall determine the number of years the deduction is allowed. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

- (1) as part of the resolution adopted under section 2.5 of this chapter; or
- (2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the state board of tax commissioners. A certified copy of the resolution shall be sent to the county auditor and the state board of tax commissioners.

A determination about the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

(i) The owner of new manufacturing equipment that is directly used to dispose of hazardous waste is not entitled to the deduction provided by this section for a particular assessment year if during that assessment year the owner:

- (1) is convicted of a violation under IC 13-7-13-3 (repealed), IC 13-7-13-4 (repealed), or IC 13-30-6; or
- (2) is subject to an order or a consent decree with respect to property located in Indiana based on a violation of a federal or state rule, regulation, or statute governing the treatment, storage, or disposal of hazardous wastes that had a major or moderate potential for harm."

Page 57, between lines 28 and 29, begin a new paragraph and insert:

**"SECTION 62. [EFFECTIVE JANUARY 1, 2002] IC 6-1.1-12.1-4.5, as amended by this act, applies to property taxes first due and payable after December 31, 2001."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1499 as printed February 13, 2001.

GOEGLEIN

HOUSE MOTION

Mr. Speaker: I move that House Bill 1499 be made a special order of business for 11:20 a.m.

GOEGLEIN

Motion prevailed.

**House Bill 1573**

Representative Kuzman called down House Bill 1573 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 1573-5)

Mr. Speaker: I move that House Bill 1573 be amended to read as follows:

Page 14, line 33, delete "and".

Page 15, line 6, delete "." and insert "; and".

**(4) meets the experience requirements set forth in subsection (b).**

**(b) A person who submits an application for the initial issuance of a certificate under this chapter after June 30, 2001, shall show that the applicant has two (2) years of experience that meet the requirements of the board. To qualify as experience under this section, the experience must be verified by a licensee."**

Page 15, delete lines 7 through 8.

Page 19, line 12, after "8." insert "(a)".

Page 19, line 19, strike "'EA", "

Page 19, between lines 21 and 22, begin a new paragraph and insert:

**"(b) The title "enrolled agent" or "EA" may only be used by individuals who are so designated by the Internal Revenue Service under 31 CFR 10."**

Page 20, after line 28, begin a new paragraph and insert:

**"SECTION 53. [EFFECTIVE JULY 1, 2001] (a) Not later than July 1, 2002, the Indiana board of accountancy shall establish a written test to be taken by an applicant for an accounting practitioner certificate under IC 25-2.1-6. The examination established by the**

board must test competency skills in accounting theory and practice.

(b) Subject to subsection (c), a person who submits an application for an accounting practitioner's certificate after June 30, 2002, must pass the test established by the board under subsection (a) in order to receive an accounting practitioner's certificate under IC 25-2.1-6.

(c) If a person submits an application for an accounting practitioner's certificate after June 30, 2002, and the board has not established the test required under subsection (a), the board shall give an applicant the test established by the board before July 1, 2002. An applicant subject to this subsection shall be required to pass the test established by the board before July 1, 2002, in order to receive an accounting practitioner's certificate under IC 25-2.1-6.

(d) This SECTION expires July 1, 2005."

(Reference is to HB 1573 as printed February 9, 2001.)

KUZMAN

Motion prevailed. The bill was ordered engrossed.

### House Bill 1900

Representative Avery called down House Bill 1900 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### House Bill 1926

Representative Crooks called down House Bill 1926 for second reading. The bill was read a second time by title.

#### HOUSE MOTION (Amendment 1926-1)

Mr. Speaker: I move that House Bill 1926 be amended to read as follows:

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

"SECTION 1. IC 4-23-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. There is established the state data processing information technology oversight commission."

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

"SECTION 2. IC 4-23-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The staff of the commission shall assist the commission in implementing this chapter.

(b) The commission may shall create, from existing state agency personnel or other individuals and organizations, any additional groups or committees necessary to allow it to carry out its responsibilities.

SECTION 3. IC 4-23-16-4.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.2. (a) Subject to the direction of the commission, the staff shall do the following:

- (1) Provide technical staff support services to the commission.
- (2) Monitor trends and advances in data processing information technology.
- (3) Develop an overall strategy and architecture for the use of data processing information technology in state government.
- (4) Coordinate state data processing information technology master planning.
- (5) Review and recommend actions to the commission on project requests, contracts, and technical documents.
- (6) Provide consulting and technical advisory services to state agencies.
- (7) Monitor agency data processing information technology activities.
- (8) Review data processing information technology project plans and budget requests.
- (9) Develop and maintain policies, procedures, and guidelines for the effective use of data processing information technology.
- (10) Monitor data processing information technology legislation and recommend needed legislation to the commission.
- (11) Conduct periodic management reviews of data processing information technology activities within state agencies.
- (12) Maintain an inventory of data processing information

technology resources and expenditures.

(13) Perform other related functions and duties that are requested by the commission.

(b) The commission may require a director of data processing information technology services or other knowledgeable individuals employed by an agency to advise and assist the staff in carrying out the commission's functions.

SECTION 4. IC 4-23-16-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) As used in this chapter, "data processing" "information technology" includes the resources, technologies, and services associated with the fields of:

- (1) information processing;
- (2) office automation; and
- (3) telecommunication facilities and networks.

(b) It shall be the responsibility of the commission to coordinate the operations of the various data processing information technology systems within the executive, including the administrative, branch of state government insofar as is possible without infringing upon the prerogatives of the separately elected state officials. The objectives of the commission shall be to develop consistent policy and to promote economical, effective, and integrated data processing information technology services, technology accessibility, operational security, and adherence to the principles of the code of fair information practices for individual privacy."

Page 2, line 2, strike "data".

Page 2, line 3, strike "processing" and insert "information technology".

Page 2, between lines 18 and 19, begin a new paragraph and insert: "SECTION 3. IC 4-23-16-9 IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: Sec. 9. All agencies in the executive, including the administrative, branch of state government shall annually submit to the commission a data processing an information technology resource inventory to include all data processing information technology hardware, software, technical personnel and data processing information technology contracts.

SECTION 4. IC 4-23-16-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. The commission shall conduct such studies and reviews as it deems necessary to provide high quality, cost effective data processing information technology within state government, with adequate protections of the individual citizen's interests in personal privacy. It shall recommend to the appropriate state official, the governor or the legislature, any necessary changes in data processing information technology within state government."

Page 2, line 21, after "(a)" delete "The commission shall develop" and insert "The commission shall appoint a subcommittee to develop standards that are compatible with principles and goals contained in the electronic and information technology accessibility standards adopted by the architectural and transportation barriers compliance board under Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. 749d), as amended.

(b) The subcommittee shall consist, at minimum, of the following:

- (1) A representative of an organization with experience in and knowledge of assistive technology policy.
- (2) An individual with a disability.
- (3) The state procurement officer.
- (4) The chief information officer.
- (5) The state personnel director.

(c) Project requests made under section 8 of this chapter shall comply with the standards developed under this section.

(d) An agency must submit a plan for undue burden with timelines for compliance and must provide alternative means for accessibility during the period."

Page 2, delete lines 22 through 32.

Renumber all SECTIONS consecutively.

(Reference is to HB 1926 as printed January 31, 2001.)

CROOKS

Motion prevailed. The bill was ordered engrossed.

### House Bill 1943

Representative Budak called down House Bill 1943 for second

reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

## ENGROSSED HOUSE BILLS ON THIRD READING

### Engrossed House Bill 1477

Representative Kuzman called down Engrossed House Bill 1477 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

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

Roll Call 123: yeas 75, nays 18. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Kenley and Alexa.

### Engrossed House Bill 1555

Representative Crooks called down Engrossed House Bill 1555 for third reading:

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

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

Representative Murphy was excused from voting. Roll Call 124: yeas 93, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Paul.

### Engrossed House Bill 1758

Representative Lytle called down Engrossed House Bill 1758 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation and natural and cultural resources.

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

Roll Call 125: yeas 92, nays 2. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators R. Meeks and Lewis.

### Engrossed House Bill 1928

Representative Crooks called down Engrossed House Bill 1928 for third reading:

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

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

Roll Call 126: yeas 94, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Gard.

### Engrossed House Bill 1074

Representative Lytle called down Engrossed House Bill 1074 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

## HOUSE MOTION (Amendment 1074-1)

Mr. Speaker: I move that Engrossed House Bill 1074 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

Page 2, delete lines 9 through 19.

Renumber all SECTIONS consecutively.

(Reference is to HB 1074 as printed January 31, 2001.)

LYTLE

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 1074, begs leave to report that said bill has been amended as directed.

LYTLE

Report adopted.

The question then was, Shall the bill pass?

Roll Call 127: yeas 89, nays 4. 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 Wheeler and Lewis.

## SPECIAL ORDER OF BUSINESS

### House Bill 1499

The Speaker handed down House Bill 1499, authored by Representative Bauer, which had been made a special order of business. The bill was reread a second time by title. The motion of Representative Goeglein (1499-1, *see page 292*) was pending.

Representative Goeglein withdrew the motion.

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

## REPORTS FROM COMMITTEES

### COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1699, 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 6.

CROOKS, Chair

Report adopted.

### COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1890, 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 17, after "required" insert "**for enrollment in grade 1**".

Page 2, line 3, delete "expenses." and insert "**expense that is greater than a copayment, deductible, coinsurance, or out of pocket expense established for similar benefits under the self-insurance program or contract with a prepaid health care delivery plan.**".

Page 2, line 32, after "required" insert "**for enrollment in grade 1**".

Page 2, line 33, delete "An insurer" and insert "**The coverage required under this chapter**".

Page 2, line 33, delete "apply" and insert "**be subject to**".

Page 2, line 34, delete "to the coverage of childhood" and insert "**that is greater than a copayment, deductible, coinsurance, or out of pocket expense established for similar benefits under the policy of accident and sickness insurance.**".

Page 2, delete line 35.

Page 2, line 41, after "required" insert "**for enrollment in grade 1**".

Page 2, line 42, delete "A health maintenance organization" and insert "**The coverage required under this section**".

Page 2, line 42, delete "apply" and insert "**be subject to**".

Page 3, line 1, delete "to the coverage of" and insert "**that is greater than a copayment, deductible, or out of pocket expense established for similar benefits under the contract.**".

Page 3, delete line 2.

(Reference is to HB 1890 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 6.

CROOKS, Chair

Report adopted.

## OTHER BUSINESS ON THE SPEAKER'S TABLE

### HOUSE MOTION

Mr. Speaker: I move that Representative Mangus be removed as author of House Bill 1058, Representative Weinzapfel be substituted as author, and Representative Mangus be added as coauthor.

MANGUS

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Grubb be removed as author of House Bill 1113, Representative Bodiker be substituted as author.

GRUBB

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Mannweiler be added as coauthor of House Bill 1424.

BAUER

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Frenz be added as coauthor of House Bill 1440.

V. SMITH

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Wolkins be added as coauthor of House Bill 1625.

WELCH

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Fry be added as coauthor of House Bill 1667.

M. SMITH

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representatives Budak, C. Brown, and Crawford be added as coauthors of House Bill 1886.

PELATH

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Yount be added as coauthor of House Bill 1890.

WHETSTONE

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that the Committee on Rules and Legislative Procedures be removed as author of House Bill 2146, Representative Moses be substituted as author.

MOSES

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that the Committee on Rules and Legislative Procedures be removed as author of House Bill 2147, Representative Moses be substituted as author.

MOSES

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that the Committee on Rules and Legislative Procedures be removed as author of House Bill 2148, Representative Kuzman be substituted as author.

MOSES

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Munson the House adjourned at 11:30 a.m., this fifteenth day of February, 2001, until Monday, February 19, 2001, at 1:00 p.m.

JOHN R. GREGG

Speaker of the House of Representatives

LEE ANN SMITH

Principal Clerk of the House of Representatives