Journal of the House

State of Indiana

114th General Assembly — Second Regular Session

Tenth Meeting Day — **Tuesday Afternoon** — **January 24, 2006**

The House convened at 1:30 p.m. with Speaker Brian C. Bosma in the Chair.

The Pledge of Allegiance to the Flag was led by Representative Vernon G. Smith.

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

Aguilera
Austin
Avery
Ayres
Bardon
Bauer
Behning
Bell
Bischoff
Borders
Borror
C. Bottorff
Bright
C. Brown
T. Brown
Buck
Budak
Buell
Burton
Cheney
Cherry
Cochran
Crawford
Crooks
Crouch
Davis
Day
Denbo
Dickinson
Dobis
Dodge
Duncan
Dvorak
Espich
Foley
Friend
Frizzell
Fry
GiaQuinta
Goodin
Grubb
Gutwein
E. Harris
T. Harris
Heim
Hinkle
Hoffman
Hoy
Kersey
Klinker
Koch
Kromkowski
Kuzman
L. Lawson
Lehe
Leonard
J. Lutz
Mahern
Mays
McClain
Messer
Micon
Moses
Murphy
Neese
Noe
Orentlicher
Oxley
Pelath
Pflum
Pierce
Pond
Porter
Reske
Richardson
Ripley
Robertson
Ruppel
Saunders
J. Smith
V. Smith
Stevenson
Stilwell
Stutzman
Summers
Thomas
Thompson
Tincher
Torr
Turner
Tyler
Ulmer
VanHaaften
Walorski
Welch
Whetstone
Wolkins
Woodruff
Yount
Mr. Speaker

Roll Call 36: 100 present. The Speaker announced a quorum in attendance.

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Wednesday, January 25, 2006 at 1:30 p.m.

CHERRY

Motion prevailed.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 3:50 p.m. with the Speaker in the Chair.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 19 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1117, 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 5, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 8. IC 36-9-31-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 23. Any facility owned, operated, or financed under this chapter shall accept waste accumulated within the waste disposal district without discrimination as to whether or not the waste is collected by the city. The fees made by any such facility for any services rendered or to be rendered, either directly or in connection with them, must be nondiscriminatory, but they may vary based upon the volume, weight, hazardousness, or difficulty of disposal of the waste disposed of or processed by the facility. **If a person enters into a contract with the consolidated city to accept the consolidated city's waste at a facility, the person may not be considered to be operating the facility for purposes of this section.**".

Page 5, line 13, delete "IC 13-20-4-10;".

Renumber all SECTIONS consecutively.

(Reference is to HB 1117 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

WOLKINS, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1136, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 8, nays 0.

WOODRUFF, Vice Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1220, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.
Delete pages 2 through 4.
Page 5, delete lines 1 through 41.
Page 10, delete lines 26 through 42.
Page 11, delete lines 1 through 32.
Renumber all SECTIONS consecutively.
(Reference is to HB 1220 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 1.

DUNCAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1286, 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 9, nays 3.

DUNCAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1315, 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 6, delete "2016." and insert "**2011.**".
Page 1, line 8, delete "care".
Page 1, line 8, delete "2013," and insert "**2009,**".
Page 1, line 9, delete "2013," and insert "**2009,**".
Page 1, line 11, delete "2016." and insert "**2011.**".
Page 2, between lines 8 and 9, begin a new paragraph and insert:
"SECTION 3. [EFFECTIVE JULY 1, 2006] **(a) As used in this SECTION, "department" refers to the state department of health.**

(b) The department shall implement disclosure guidelines for health facilities that are licensed under IC 16-28 concerning automatic fire sprinkler systems and smoke detectors, including the following:

(1) The status of automatic fire sprinkler systems and smoke detectors.
(2) The type of smoke detectors that are used.
(3) The plan of the health facility to install or update automatic fire sprinkler systems and smoke detectors.

The disclosure guidelines may include Internet web site postings, posting of information at health facilities, and providing information to new clients of a health facility. However, the disclosure guidelines must provide that any information that is posted or distributed must be updated.

(c) This SECTION expires July 1, 2011.".
Renumber all SECTIONS consecutively.
(Reference is to HB 1315 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

T. BROWN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Safety and Homeland Security, to which was referred House Bill 1383, 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 3, delete lines 23 through 30.
Page 3, line 31, delete "8." and insert "**7.**".
Page 3, line 41, delete "9." and insert "**8.**".
Page 4, between lines 5 and 6, begin a new paragraph and insert:
"**Sec. 9. A provision of this chapter that violates federal law is void.**".
(Reference is to HB 1383 as introduced.)
and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 3.

RUPPEL, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1395, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

T. BROWN, Chair

Report adopted.

RESOLUTIONS ON FIRST READING

House Resolution 2

Representative Pelath introduced House Resolution 2:

A RESOLUTION memorializing former state Representative Henry J. "Bud" Kintzele, Jr.

Whereas, Henry J. "Bud" Kintzele, Jr., served in the Indiana House of Representatives in 1959 and 1960;

Whereas, Representing LaPorte County, Representative Kintzele authored and worked to get the Port Authorities Act of 1959 enacted into law;

Whereas, Representative Kintzele was a contributing member of the Democratic National Committee, a member of the Democratic Platform Committee of 1960, a charter member of the Coolspring Democratic Club, a co-founder of the Michigan City Democratic Athletic Club with former Representative Clifford Arnold, and a former LaPorte County Councilman;

Whereas, Representative Kintzele was elected as a LaPorte County Commissioner in 1997 at the age of 83;

Whereas, Representative Kintzele joined Lodge 290 of the Carmen's Union in 1942, was elected financial secretary and business agent of that union in 1944, and was re-elected to eight successive terms until he was elected to a position with the International Union in 1959;

Whereas, Representative Kintzele served as a senior general vice president of the International Union until his retirement in 1979;

Whereas, Representative Kintzele was born on September 15, 1914, in Michigan City to Henry J. Kintzele, Sr., and Hazel Garnet Sieben; was married July 30, 1943, to Mildred Mae "Billie" Kull, who passed away on March 31, 1971; and on October 4, 1974, married Virginia M. Hansen, who died on August 23, 2005; and

Whereas, Representative Kintzele is survived by three daughters, Joyce E. Barnes, Margaret J. Fusco, and Diane L. Burda; one stepson, David R. Kintzele; one stepdaughter, Elizabeth Johnson; one brother, James Kintzele; two sisters, Eileen Borglin and Marjorie Pawloski; and one grandson, six granddaughters, nine great-grandsons, three great-granddaughters, two step-granddaughters, and two step-great-grandsons: 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 honors the life, public service, and dedication to working people displayed by Representative Henry J. "Bud" Kintzele.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the family of Henry J. "Bud" Kintzele, Jr.

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

House Resolution 3

Representative Fry introduced House Resolution 3:

A RESOLUTION honoring Hardie Jay Smith on the occasion of his retirement.

Whereas, Hardie Jay Smith has served the members of Sheet Metal Workers Local #41 with honor and distinction;

Whereas, Hardie Jay Smith began the Sheet Metal Workers Local #41 Apprenticeship Program due to the encouragement of his uncle and his partner who were starting up a new company;

Whereas, Upon the retirement of his uncle in 1980, Hardie Jay Smith was given many of his uncle's responsibilities and became the company's controller, a position he held until 1988;

Whereas, During his time as controller, the company grew from 23 to 47 employees and increased its business in part due to a production agreement developed primarily by Hardie Jay Smith;

Whereas, In 1974, through the encouragement of Mike Sullivan, Hardie Jay Smith began attending local union meetings;

Whereas, In January 1989, Hardie Jay Smith was selected to be the administrator-coordinator of the Indianapolis Area Apprenticeship Program;

Whereas, In 1990, the Indianapolis Area established a statewide training trust that allowed for the merger of all seven apprenticeship programs in the jurisdiction of Local #20; Hardie Jay Smith was selected to be the administrator of the Trust and coordinator for the seven area Joint Apprenticeship and Training Committees; and

Whereas, Throughout his career, Hardie Jay Smith has continually set goals for himself, and he has successfully reached each one: 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 expresses its best wishes to Hardie Jay Smith on the occasion of his retirement and wishes him happiness and contentment in the coming years.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Hardie Jay Smith.

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

Senate Concurrent Resolution 19

The Speaker handed down Senate Concurrent Resolution 19, sponsored by Representative Orentlicher:

A CONCURRENT RESOLUTION congratulating the Brebeuf Jesuit Girls Volleyball Team on winning the 2005 Class 3A State Championship Title.

Whereas, The Brebeuf Braves took on the Boonville Pioneers in the Indiana Class 3A State Volleyball Championship at Hinkle Fieldhouse on November 15, 2005;

Whereas, In a hard-fought, four-game match, the Brebeuf Jesuit Girls Volleyball Team capped off a stellar 2005 season by winning their second state championship title in three years;

Whereas, Each member of the team played a key role in the championship match. In addition to scoring the winning point in the final game, Claire McElheny led all players with 4 block assists and contributed 2 service aces and 12 kills. Kim Kristoff recorded a match-high 17 kills and added a solo block and 2 block assists;

Whereas, Sam Gray accumulated 45 assists, 2 service aces and three block assists for the Braves. Sally Fischer and Sarah Kish anchored the Brebeuf defense with a match-high 15 digs apiece;

Whereas, Senior Sarah Kish, who has been an all-around athlete and high honor roll student while at Brebeuf, also received individual recognition winning the 2005 IHSAA Class 3A Mental Attitude Award presented by members of the IHSAA Executive Committee; and

Whereas, The Indiana General Assembly commends the members of the Brebeuf Girls Volleyball Team for their hard work and dedication throughout the 2005 season: Therefore,

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

SECTION 1. That the Indiana General Assembly congratulates the Brebeuf Jesuit Girls Volleyball Team on achieving a 37-1 season record and winning the 2005 Class 3A State Championship.

SECTION 2. The Secretary of the Senate is hereby directed to transmit copies of this Resolution to Brebeuf Jesuit Preparatory School Principal, Kathee Gaskin, Girls Volleyball Coach, Brian Murray, and each member of the championship team.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

OTHER BUSINESS ON THE SPEAKER'S TABLE

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives Davis, Cherry, Crouch, and Woodruff be added as coauthors of House Bill 1008.

BORROR

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

HOUSE MOTION

Mr. Speaker: I move that Representatives Ruppel, Thomas, and Bischoff be added as coauthors of House Bill 1090.

TINCHER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Budak be added as coauthor of House Bill 1097.

FRIZZELL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative T. Harris be added as coauthor of House Bill 1142.

LEONARD

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative T. Brown be added as coauthor of House Bill 1159.

RICHARDSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative T. Brown be added as coauthor of House Bill 1162.

BUELL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Bischoff be added as coauthor of House Bill 1234.

RUPPEL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Tincher be added as coauthor of House Bill 1236.

RUPPEL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Woodruff be added as coauthor of House Bill 1261.

BURTON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Ruppel be added as coauthor of House Bill 1343.

HINKLE

Motion prevailed.

HOUSE BILLS ON SECOND READING

House Bill 1006

Representative Noe called down House Bill 1006 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1006–1)

Mr. Speaker: I move that House Bill 1006 be amended to read as follows:

Page 2, between lines 4 and 5, begin a new paragraph and insert:

"**Sec. 2. This article is supplemental to and does not abrogate the powers given to school corporations under the home rule provisions of IC 20-26-3, and those powers remain in full effect.**".

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

Page 6, line 4, delete "December 31, 2006," and insert "**June 30, 2007,**".

Page 6, line 36, before "chapter;" insert "**chapter and whether the school corporation met the goals established for the previous school year under section 6 of this**".

Page 6, line 39, delete "and".

Page 7, line 1, delete "year." and insert "**year; and**

(D) the goals established under section 6 of this chapter for the current school year.".

Page 7, line 7, after "6." insert "**(a)**".

Page 7, line 7, delete "the state" and insert "**each governing body**".

Page 7, delete lines 8 through 17 and insert "**shall establish goals for each category of expenditures set forth in section 4 of this chapter that will increase the school corporation's allocation of taxpayer resources directly to student instruction and learning.**

(b) The state board shall recognize and reward the school corporations that have met the goals described in subsection (a).".

Page 7, line 22, delete "modify;" and insert "**modify before approving;**".

Page 7, line 26, after "principles" insert "**based on the system of accounting used by school corporations and schools on June 30, 2006,**".

Page 8, delete lines 26 through 30.

Page 8, line 31, delete "(g)" and insert "**(f)**".

Page 8, line 31, delete "2008." and insert "**2009.**".

(Reference is to HB 1006 as printed January 20, 2006.)

BEHNING

Motion prevailed.

HOUSE MOTION
(Amendment 1006–2)

Mr. Speaker: I move that House Bill 1006 be amended to read as follows:

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

"SECTION 1. IC 20-27-9-5, AS ADDED BY P.L.1-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A special purpose bus may be used:

(1) by a school corporation to provide regular transportation of a student between one (1) school and another school but not between the student's residence and the school;

(2) to transport students and their supervisors, including coaches, managers, and sponsors to athletic or other extracurricular school activities and field trips; ~~and~~

(3) by a school corporation to provide transportation between an individual's residence and the school for an individual enrolled in a special program for the habilitation or rehabilitation of developmentally disabled or physically disabled persons; **and**

(4) to transport homeless students under IC 20-27-12.

(b) The mileage limitation of section 3 of this chapter does not apply to special purpose buses.

(c) The operator of a special purpose bus must be at least twenty-one (21) years of age, be authorized by the school corporation, and meet the following requirements:

(1) If the special purpose bus has a capacity of less than sixteen (16) passengers, the operator must hold a valid operator's, chauffeur's, or public passenger chauffeur's license.

(2) If the special purpose bus has a capacity of more than fifteen (15) passengers, the operator must meet the requirements for a school bus driver set out in IC 20-27-8.

(d) A special purpose bus is not required to be constructed, equipped, or painted as specified for school buses under this article or by the rules of the committee.

(e) An owner or operator of a special purpose bus, other than a special purpose bus owned or operated by a school corporation or a nonpublic school, is subject to IC 8-2.1.

SECTION 2. IC 20-27-12 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 12. Transportation of Homeless Students

Sec. 1. As used in this chapter, "original school corporation" refers to a school corporation in which a homeless student's school of origin is located.

Sec. 2. As used in this chapter, "school of origin" means the school:

(1) that a homeless student attended when the student last had a permanent residence; or

(2) in which the homeless student was last enrolled.

Sec. 3. As used in this chapter, "transitional school corporation" refers to a school corporation in which a homeless student temporarily stays.

Sec. 4. (a) If a homeless student temporarily stays in the homeless student's original school corporation but outside the attendance area for the school of origin, the original school corporation shall provide transportation for the homeless student from the place where the homeless student is temporarily staying to the school of origin.

(b) If:

(1) a homeless student's school of origin is located in a school corporation in which the homeless student does not temporarily stay; and

(2) the homeless student does not elect to attend a school located in the school corporation in which the homeless student is temporarily staying;

the original school corporation and the transitional school corporation shall enter into an agreement concerning the responsibility for and apportionment of the costs of transporting the homeless student to the school of origin.

(c) If the original school corporation and the transitional school corporation are unable to reach an agreement under subsection (b), the responsibility for transporting the homeless student to the school of origin is shared equally between both school corporations, and the cost of transporting the homeless student to the school of origin is apportioned equally between both school corporations.

Sec. 5. (a) A school corporation may use the following types of vehicles in transporting a homeless student to a school of origin:

(1) If at least four (4) homeless students are being

transported to schools in the same school corporation, a special purpose bus must be used to transport the students.
(2) If three (3) or fewer students are being transported to schools in the same school corporation, an appropriate vehicle owned by the school corporation may be used to transport the students.
(b) The driver of a vehicle used to transport homeless students to a school of origin under subsection (a) must meet the qualifications set forth in IC 20-27-9-5(c).".
Page 8, after line 31, begin a new paragraph and insert:
"SECTION 5. **An emergency is declared for this act.**".
Renumber all SECTIONS consecutively.
(Reference is to HB 1006 as printed January 20, 2006.)
HINKLE

Motion prevailed. The bill was ordered engrossed.

House Bill 1010

Representative Wolkins called down House Bill 1010 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1010–9)

Mr. Speaker: I move that House Bill 1010 be amended to read as follows:
Page 12, line 38, after "IC 32-24-1" insert "**, not to exceed two hundred and fifty thousand dollars ($250,000)**".
Page 13, line 4, after "IC 32-24-1" insert "**, not to exceed two hundred and fifty thousand dollars ($250,000)**".
Page 13, line 12, after "IC 32-24-1" insert "**, not to exceed two hundred and fifty thousand dollars ($250,000)**".
Page 13, line 17, delete "any reasonable".
Page 13, line 17, delete "incurred by the" and insert"**:**
(1) in an amount equal to ten percent (10%) of the costs of the acquisition of the real property; and
(2) not to exceed two hundred and fifty thousand dollars ($250,000).".
Page 13, delete line 18.
(Reference is to HB 1010 as printed January 11, 2006.)
HINKLE

Motion prevailed.

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

HOUSE MOTION
(Amendment 1010–1)

Mr. Speaker: I move that House Bill 1010 be amended to read as follows:
Page 10, between lines 27 and 28, begin a new paragraph and insert:
"SECTION 10. IC 32-24-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) **Except as provided in section 1.5 of this chapter,** a person, firm, partnership, limited liability company, or corporation authorized to do business in Indiana and authorized to:
(1) furnish, supply, transmit, transport or distribute electrical energy, gas, oil, petroleum, water, heat, steam, hydraulic power, or communications by telegraph or telephone to the public or to any town or city; or
(2) construct, maintain or operate turnpikes, toll bridges, canals, public landings, wharves, ferries, dams, aqueducts, street railways, or interurban railways for the use of the public or for the use of any town or city;
may take, acquire, condemn, and appropriate land, real estate, or any interest in the land or real estate.
(b) A person described in subsection (a) has all accommodations, rights, and privileges necessary to accomplish the use for which the property is taken. A person acting under subsection (a) may use acquired, condemned, or appropriated land to construct railroad siding, switch, or industrial tracks connecting its plant or facilities with the tracks of any common carrier.
SECTION 11. IC 32-24-4-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. A private utility that:**
(1) holds a certificate of territorial authority to provide sewage disposal service; and
(2) provides or will provide sewage disposal service to less than five hundred (500) customers;
may not exercise the power of eminent domain to take, acquire, condemn, or appropriate land, real estate, or any interest in the land or real estate, including an easement or a right-of-way.".
Renumber all SECTIONS consecutively.
(Reference is to HB 1010 as printed January 11, 2006.)
ROBERTSON

Motion prevailed.

HOUSE MOTION
(Amendment 1010–5)

Mr. Speaker: I move that House Bill 1010 be amended to read as follows:
Page 10, line 33, delete "(a) Except as provided in subsection (b), this" and insert "**This**".
Page 10, delete lines 40 through 42.
Page 11, delete lines 1 through 4.
(Reference is to HB 1010 as printed January 11, 2006.)
VAN HAAFTEN

Upon request of Representatives VanHaaften and Pierce, the Chair ordered the roll of the House to be called. Roll Call 37: yeas 48, nays 51. Motion failed.

HOUSE MOTION
(Amendment 1010–14)

Mr. Speaker: I move that House Bill 1010 be amended to read as follows:
Page 1, between the enacting clause and line 1, begin a new paragraph and insert:
"SECTION 1. IC 4-20.5-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This chapter applies to the disposition of state property, with or without consideration.
(b) This chapter does not authorize the transfer of property held in trust by the state unless the transfer is consistent with the terms of the trust.
(c) Except as provided in **section 1.5 of this chapter and** IC 8-23-7-15, this chapter does not apply to the sale of state property, including structures to be removed from state property, under the control of the department of transportation.
SECTION 2. IC 4-20.5-7-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. An agency, including the department of transportation, or a state educational institution may not transfer ownership or control of property acquired through the use of eminent domain to a private person unless the property is not usable by any:**
(1) agency, including the department of transportation; or
(2) state educational institution.".
Renumber all SECTIONS consecutively.
(Reference is to HB 1010 as printed January 11, 2006.)
DVORAK

Upon request of Representatives Dvorak and Bauer the Chair ordered the role of the House to be called. Roll Call 38: yeas 48, nays 51. Motion failed.

HOUSE MOTION
(Amendment 1010–12)

Mr. Speaker: I move that House Bill 1010 be amended to read as follows:
Page 13, between lines 18 and 19, begin a new paragraph and insert:
"SECTION 11. IC 36-1-3-8, AS AMENDED BY P.L.200-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) Subject to subsection (b), a unit does not have the following:
(1) The power to condition or limit its civil liability, except as expressly granted by statute.
(2) The power to prescribe the law governing civil actions between private persons.

(3) The power to impose duties on another political subdivision, except as expressly granted by statute.
(4) The power to impose a tax, except as expressly granted by statute.
(5) The power to impose a license fee greater than that reasonably related to the administrative cost of exercising a regulatory power.
(6) The power to impose a service charge or user fee greater than that reasonably related to reasonable and just rates and charges for services.
(7) The power to regulate conduct that is regulated by a state agency, except as expressly granted by statute.
(8) The power to prescribe a penalty for conduct constituting a crime or infraction under statute.
(9) The power to prescribe a penalty of imprisonment for an ordinance violation.
(10) The power to prescribe a penalty of a fine as follows:
(A) More than ten thousand dollars ($10,000) for the violation of an ordinance or a regulation concerning air emissions adopted by a county that has received approval to establish an air program under IC 13-17-12-6.
(B) For a violation of any other ordinance:
(i) more than two thousand five hundred dollars ($2,500) for a first violation of the ordinance; and
(ii) except as provided in subsection (c), more than seven thousand five hundred dollars ($7,500) for a second or subsequent violation of the ordinance.
(11) The power to invest money, except as expressly granted by statute.
(12) The power to order or conduct an election, except as expressly granted by statute.
(13) The power to:
(A) provide protections; or
(B) grant access;
to a person renting, leasing, or buying private property greater than those protections or access offered by the Constitution of the State of Indiana, the Constitution of the United States, or federal law, except as expressly granted by statute.
(14) The power to provide:
(A) protections; or
(B) opportunities;
in private employment greater than those protections or opportunities offered by the Constitution of the State of Indiana, the Constitution of the United States, or federal law, except as expressly granted by statute.
(b) A township does not have the following, except as expressly granted by statute:
(1) The power to require a license or impose a license fee.
(2) The power to impose a service charge or user fee.
(3) The power to prescribe a penalty.
(c) Subsection (a)(10)(B)(ii) does not apply to the violation of an ordinance that regulates traffic or parking.".
Renumber all SECTIONS consecutively.
(Reference is to HB 1010 as printed January 11, 2006.)

THOMPSON

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

The question then was on the motion of Representative Thompson.

The Speaker Pro Tempore yielded the gavel to the Speaker.

On the motion of Representative Whetstone, the House adjourned at 5:40 p.m., this twenty-fourth day of January, 2006, until Wednesday, January 25, 2006, at 1:30 p.m.

BRIAN C. BOSMA
Speaker of the House of Representatives

M. CAROLINE SPOTTS
Principal Clerk of the House of Representatives