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

The invocation was offered by Reverend Dirk Raderstorf, Christian Church, Lucerne, the guest of Representative Richard W. McClain.

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

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

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

Roll Call 203: 100 present. The Speaker announced a quorum in attendance.

RESOLUTIONS ON FIRST READING

House Resolution 15

Representative Duncan introduced House Resolution 15:

A HOUSE RESOLUTION to honor Dr. Henry J. Heimlich for his outstanding accomplishments in the field of medicine and for his continued dedication to find cures for cancer and HIV.

Whereas, Dr. Henry J. Heimlich received his Bachelor's of Arts degree from Cornell University in 1941 and his Medical Degree from Cornell Medical College in 1943;

Whereas, Since 1945, Dr. Henry J. Heimlich's career is notable for the abundance of creative simple solutions he has provided for seemingly insurmountable health and medical problems;

Whereas, In 1974, Dr. Henry J. Heimlich published his findings on what was to become the Heimlich Maneuver;

Whereas, Since its introduction in 1974, The Heimlich Maneuver has saved 50,000 people in the United States from choking and drowning;

Whereas, While assigned to a U.S. Naval Group in China during World War II, Dr. Heimlich took a chance with an innovative treatment for victims of trachoma and successfully treated hundreds of people;

Whereas, In the 1950s, a month after completing training in general and chest surgery, Dr. Heimlich conceived of an operation to replace the esophagus;

Whereas, The esophagus replacement was the first total organ replacement in history and is used today to overcome birth defects of the esophagus;

Whereas, In 1964, the Heimlich Chest Drain Valve was introduced;

Whereas, Dr. Henry J. Heimlich is considered a hero in Vietnam and the United States, where the lives of thousands of American and Vietnamese soldiers shot in the chest were saved for the first time in history by the Heimlich Chest Drain Valve;

Whereas, Today more than 250,000 Heimlich valves are used worldwide each year to treat patients with chest wounds, or following surgery;

Whereas, In 1980, Dr. Henry J. Heimlich conceived of the Heimlich MicroTrach™;

Whereas, During the 1980s Dr. Henry J. Heimlich also developed a method for teaching stroke victims and other patients who were fed through a tube to swallow again;

Whereas, Dr. Henry J. Heimlich was inducted into the Safety and Health Hall of Fame International in 1993;

Whereas, Dr. Henry J. Heimlich received the Maimonides Research Institute Award (Haifa, Israel) in 1992;

Whereas, Dr. Henry J. Heimlich received the Americaism Award from the China Burma India Veterans Association in 1988;

Whereas, Dr. Henry J. Heimlich received the American Academy of Achievement Award in 1985;

Whereas, Dr. Henry J. Heimlich was inducted into the Engineering and Science Hall of Fame, Dayton, in 1984;

Whereas, Dr. Henry J. Heimlich received the Albert Lasker Award, New York, in 1984;
Whereas, Today, Dr. Henry J. Heimlich has turned his attention to two devastating illnesses for which medicine has not yet found a cure—cancer and HIV; and

Whereas, Dr. Henry J. Heimlich is to be commended for his numerous accomplishments in the field of medicine and for his continued dedication to meet the ever-increasing medical needs of mankind: 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 does honor Dr. Henry J. Heimlich for his outstanding accomplishments in the field of medicine and for his continued dedication to find cures for cancer and HIV.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Dr. Henry J. Heimlich.

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

The House recessed until the fall of the gavel to allow the minority party to caucus.

RECESS

The House reconvened at 3:00 p.m. with the Speaker in the Chair.

Representative Pelath rose to a point of order suggesting the absence of a quorum and requesting a quorum call.

The Speaker ordered the roll of the House to be called to determine the presence or absence of a quorum. A quorum was not present. The Speaker announced that the roll would remain open awaiting a quorum.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 3:45 p.m. with the Speaker Pro Tempore, Representative Turner, in the Chair.

The roll was still open. The absentees were called. A quorum was not present.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 4:35 p.m. with the Speaker in the Chair.

The Speaker ordered the roll tallied. Roll Call 204: 67 present. The Speaker announced a quorum present.

HOUSE BILLS ON SECOND READING

House Bill 1184

Representative Leonard called down House Bill 1184 for second reading. The bill was read a second time by title.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1184 be amended to read as follows:

"Whereas, Today, Dr. Henry J. Heimlich has turned his attention to two devastating illnesses for which medicine has not yet found a cure—cancer and HIV; and

Whereas, Dr. Henry J. Heimlich is to be commended for his numerous accomplishments in the field of medicine and for his continued dedication to meet the ever-increasing medical needs of mankind: 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 does honor Dr. Henry J. Heimlich for his outstanding accomplishments in the field of medicine and for his continued dedication to find cures for cancer and HIV.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Dr. Henry J. Heimlich.

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

The House recessed until the fall of the gavel to allow the minority party to caucus.

RECESS

The House reconvened at 3:00 p.m. with the Speaker in the Chair.

Representative Pelath rose to a point of order suggesting the absence of a quorum and requesting a quorum call.

The Speaker ordered the roll of the House to be called to determine the presence or absence of a quorum. A quorum was not present. The Speaker announced that the roll would remain open awaiting a quorum.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 3:45 p.m. with the Speaker Pro Tempore, Representative Turner, in the Chair.

The roll was still open. The absentees were called. A quorum was not present.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 4:35 p.m. with the Speaker in the Chair.

The Speaker ordered the roll tallied. Roll Call 204: 67 present. The Speaker announced a quorum present.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1184 be amended to read as follows:

Page 3, delete lines 19 through 42, begin new paragraph and insert:

"Whereas, Today, Dr. Henry J. Heimlich has turned his attention to two devastating illnesses for which medicine has not yet found a cure—cancer and HIV; and

Whereas, Dr. Henry J. Heimlich is to be commended for his numerous accomplishments in the field of medicine and for his continued dedication to meet the ever-increasing medical needs of mankind: 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 does honor Dr. Henry J. Heimlich for his outstanding accomplishments in the field of medicine and for his continued dedication to find cures for cancer and HIV.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Dr. Henry J. Heimlich.

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

The House recessed until the fall of the gavel to allow the minority party to caucus.

RECESS

The House reconvened at 3:00 p.m. with the Speaker in the Chair.

Representative Pelath rose to a point of order suggesting the absence of a quorum and requesting a quorum call.

The Speaker ordered the roll of the House to be called to determine the presence or absence of a quorum. A quorum was not present. The Speaker announced that the roll would remain open awaiting a quorum.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 3:45 p.m. with the Speaker Pro Tempore, Representative Turner, in the Chair.

The roll was still open. The absentees were called. A quorum was not present.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 4:35 p.m. with the Speaker in the Chair.

The Speaker ordered the roll tallied. Roll Call 204: 67 present. The Speaker announced a quorum present.

HOUSE BILLS ON SECOND READING

House Bill 1184

Representative Leonard called down House Bill 1184 for second reading. The bill was read a second time by title.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1184 be amended to read as follows:

"Whereas, Today, Dr. Henry J. Heimlich has turned his attention to two devastating illnesses for which medicine has not yet found a cure—cancer and HIV; and

Whereas, Dr. Henry J. Heimlich is to be commended for his numerous accomplishments in the field of medicine and for his continued dedication to meet the ever-increasing medical needs of mankind: 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 does honor Dr. Henry J. Heimlich for his outstanding accomplishments in the field of medicine and for his continued dedication to find cures for cancer and HIV.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Dr. Henry J. Heimlich.

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

The House recessed until the fall of the gavel to allow the minority party to caucus.

RECESS

The House reconvened at 3:00 p.m. with the Speaker in the Chair.

Representative Pelath rose to a point of order suggesting the absence of a quorum and requesting a quorum call.

The Speaker ordered the roll of the House to be called to determine the presence or absence of a quorum. A quorum was not present. The Speaker announced that the roll would remain open awaiting a quorum.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 3:45 p.m. with the Speaker Pro Tempore, Representative Turner, in the Chair.

The roll was still open. The absentees were called. A quorum was not present.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 4:35 p.m. with the Speaker in the Chair.

The Speaker ordered the roll tallied. Roll Call 204: 67 present. The Speaker announced a quorum present.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1184 be amended to read as follows:

Page 3, delete lines 19 through 42, begin new paragraph and insert:

"Whereas, Today, Dr. Henry J. Heimlich has turned his attention to two devastating illnesses for which medicine has not yet found a cure—cancer and HIV; and

Whereas, Dr. Henry J. Heimlich is to be commended for his numerous accomplishments in the field of medicine and for his continued dedication to meet the ever-increasing medical needs of mankind: 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 does honor Dr. Henry J. Heimlich for his outstanding accomplishments in the field of medicine and for his continued dedication to find cures for cancer and HIV.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Dr. Henry J. Heimlich.

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

The House recessed until the fall of the gavel to allow the minority party to caucus.

RECESS

The House reconvened at 3:00 p.m. with the Speaker in the Chair.

Representative Pelath rose to a point of order suggesting the absence of a quorum and requesting a quorum call.

The Speaker ordered the roll of the House to be called to determine the presence or absence of a quorum. A quorum was not present. The Speaker announced that the roll would remain open awaiting a quorum.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 3:45 p.m. with the Speaker Pro Tempore, Representative Turner, in the Chair.

The roll was still open. The absentees were called. A quorum was not present.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 4:35 p.m. with the Speaker in the Chair.

The Speaker ordered the roll tallied. Roll Call 204: 67 present. The Speaker announced a quorum present.
(U) IC 9-18-40 (D.A.R.E. Indiana trust license plates);
(V) IC 9-18-41 (Indiana arts trust license plates);
(W) IC 9-18-42 (Indiana health trust license plates);
(X) IC 9-18-43 (Indiana mental health trust license plates);
(Y) IC 9-18-44 (Indiana Native American Trust license plates);
(Z) IC 9-18-45.8 (Pearl Harbor survivor license plates); or
(CC) IC 9-18-47 (Lewis and Clark bicentennial license plates);
(DD) IC 9-18-49 (National Association for Stock Car Auto Racing (NASCAR) license plates);
may apply to the bureau for a personalized license plate to be affixed to the vehicle for which registration is sought instead of the regular special recognition license plate.

SECTION 8. IC 9-18-49 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 49. National Association for Stock Car Auto Racing (NASCAR) License Plates

Sec. 1. The bureau of motor vehicles shall design and issue a National Association for Stock Car Auto Racing (NASCAR) license plate, beginning January 1, 2006.

Sec. 2. The National Association for Stock Car Auto Racing (NASCAR) license plate shall be designed and issued as a special group recognition license plate under IC 9-18-25.

Sec. 3. After December 31, 2005, a person who is eligible to register a vehicle under this title is eligible to receive a National Association for Stock Car Auto Racing (NASCAR) license plate under this chapter after doing the following:

1. Completing an application for a National Association for Stock Car Auto Racing (NASCAR) license plate.

2. Paying the fees under section 4 of this chapter.

Sec. 4. (a) The fees for a National Association for Stock Car Auto Racing (NASCAR) license plate are as follows:

1. The appropriate fee under IC 9-29-5-38(a).


(b) The bureau shall collect the annual fee referred to in subsection (a)(2).

(c) The annual fee referred to in subsection (a)(2) shall be deposited in the fund established by section 5 of this chapter.

Sec. 5. (a) The full day kindergarten license plate fund is established.

(b) 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 trust funds are invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund is continuously appropriated for purposes of this section.

(c) The commissioner shall administer the fund. Expenses of administering the fund shall be paid from money in the fund.

(d) Beginning on July 31, 2006, and July 31 of each year thereafter, the commissioner shall distribute the money from the fund to the full day kindergarten fund established by IC 20-10.1-22-4.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund. "Delete page 6. Page 7, delete lines 1 through 12. Page 8, between lines 21 and 22, begin a new paragraph and insert: "SECTION 11. IC 9-24-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The bureau shall adopt rules under IC 4-22-2 to regulate persons required to hold a commercial driver's license.


(c) Rules adopted under this section must include the following:

(1) Establishment of classes and periods of validation of commercial driver's licenses.

(2) Standards for commercial driver's licenses, including suspension and revocation procedures.

(3) Requirements for documentation of eligibility for legal employment, as set forth in 8 CFR 274a.2, and proof of residence in Indiana.

(4) Development of written or oral tests, driving tests, and fitness requirements.

(5) Defining the commercial driver's licenses by classification and the information to be contained on the licenses, including the Social Security number and a unique identifier of the holder.

(6) Establishing fees for the issuance of commercial driver's licenses, including fees for testing and examination.

(f) Procedures for the notification by the holder of a commercial driver's license to the bureau and the driver's employer of pointable traffic offense convictions.

(g) Conditions for reciprocity with other states, including requirements for a written commercial driver's license test and operational skills test, and a hazardous materials endorsement written test and operational skills test, before a license may be issued.

(h) Other rules necessary to administer this chapter.

(d) 49 CFR 383 through 384 are adopted as Indiana law.". Page 9, line 40, delete "sections" and insert "section".

Page 9, line 40, delete "2(c)(2)," and insert "2(c)".

Page 13, delete lines 38 through 42.

Page 14, delete lines 1 through 6.

Page 15, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 30. IC 20-10.1-22-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: (a) The full day kindergarten fund is established to provide funding for full day kindergarten in addition to appropriations made for full day kindergarten in the state budget bill. The fund shall be administered by the state department of education.

(b) The fund consists of:

1. money transferred to the fund from the full day kindergarten license plate fund established by IC 9-18-49-5;  
2. appropriations made to the fund;  
3. gifts and bequests; and  
4. grants.

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

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

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

(f) Beginning on August 1, 2006, and August 1 of each year thereafter, money in the fund is continually appropriated to the state department of education for distribution to schools for full day kindergarten.

(g) Distribution from the fund shall be made in the same manner as distributions of appropriations are made to fund full day kindergarten.".

Page 15, delete lines 36 through 37, begin a new paragraph and insert: "SECTION 31. IC 9-18-2-28 IS REPEALED [EFFECTIVE JULY 1, 2005]."

Renumber all SECTIONS consecutively.

(Reference is to HB 1719 as printed February 25, 2005.)

E. HARRIS

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

HOUSE MOTION

(Amendment 1719–2)

Mr. Speaker: I move that House Bill 1719 be amended to read as follows:
Page 8, between lines 21 and 22, begin a new paragraph and insert:
"SECTION 12. IC 9-24-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The bureau shall adopt rules under IC 4-22-2 to regulate persons required to hold a commercial driver's license.


(c) Rules adopted under this section must include the following:
   (1) Establishment of classes and periods of validation of commercial driver's licenses.
   (2) Standards for commercial driver's licenses, including suspension and revocation procedures.
   (3) Requirements for documentation of eligibility for legal employment, as set forth in 8 CFR 274a.2, and proof of residence in Indiana.
   (4) Development of written or oral tests, driving tests, and fitness requirements.
   (5) Defining the commercial driver's licenses by classification and the information to be contained on the licenses, including the Social Security number and a unique identifier of the holder.
   (6) Establishing fees for the issuance of commercial driver's licenses, including fees for testing and examination.
   (7) Procedures for the notification by the holder of a commercial driver's license to the bureau and the driver's employer of pointable traffic offense convictions.
   (8) Conditions for reciprocity with other states, including requirements for a written commercial driver's license test and operational skills test, and a hazardous materials endorsement written test and operational skills test, before a license may be issued.
   (9) Other rules necessary to administer this chapter.
   (d) 49 CFR 383 through 384 are adopted as Indiana law."

Renumber all SECTIONS consecutively.

(Reference is to HB 1719 as printed February 25, 2005.)

GOODIN

Motion prevailed.

HOUSE MOTION
(Amendment 1719–3)

Mr. Speaker: I move that House Bill 1719 be amended to read as follows:

Page 3, line 32, reset in roman "schedule".

Page 3, line 32, delete "schedules".

Page 5, delete lines 19 through 42, begin a new paragraph and insert:
"SECTION 7. IC 9-18-15-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10.5. (a) A person applying for or renewing the registration of a personalized license plate as provided in section 5 of this chapter shall be charged a personalized license plate fee, the applicable excise tax imposed under IC 6-6-5, the regular registration fee, and any additional fee or charge required for the person to receive a special recognition license plate described in section 1(b) of this chapter.

(b) A license branch or qualified person (as defined in IC 9-16-1-1) shall collect the state fee set forth in IC 9-29-5-32, personalized license plate fee, and service charge applicable to a personalized license plate at the time of application or registration renewal for the personalized license plate.

(c) The payment of regular registration fees and excise tax may be deferred until the time that the personalized license plate is delivered to the person who applied for the plate."

Delete page 6.

Page 7, delete lines 1 through 12.

Page 9, line 40, delete "sections" and insert "section".

Page 9, line 40, delete "2(c)(2)", and insert "2(c),".

Page 13, delete lines 38 through 42, begin a new paragraph and insert:
"SECTION 22. IC 9-29-5-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 32. The fee for a personalized license plate under IC 9-18-15 is as follows:
(1) The applicable excise tax imposed under IC 6-6-5.
(2) The regular vehicle registration fee imposed under this chapter.
(3) A state fee of seven dollars ($7)."

(Amendment 1719–1)

Mr. Speaker: I move that House Bill 1719 be amended to read as follows:

Delete the title and insert the following:
A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles and to make an appropriation.

Page 14, line 6, after "branch" insert "restroom remodeling".

Page 14, line 6, delete "IC 9-29-14-1" and insert "IC 9-29-17-1".

Page 15, between lines 35 and 36, begin a new paragraph and insert:
"SECTION 31. IC 9-29-17 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 17. State License Branch Restroom Remodeling Fund
Sec. 1. (a) The state license branch restroom remodeling fund is established for the purpose of paying expenses incurred in remodeling license branches to provide public restrooms.

(b) Public restrooms paid for with money from the fund must comply with the federal Americans with Disabilities Act (42 U.S.C. 12101 et. seq.) and any amendments and regulations relating to the Act.

(c) The commission shall administer the fund.

Sec. 2. The treasurer of state shall invest the money in the state license branch restroom remodeling fund not currently needed to meet the obligations of the fund in the same manner as other..."
public funds may be invested.

Sec. 3. Money in the state license branch restroom remodeling fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 4. There is annually appropriated to the commission the money in the state license branch restroom remodeling fund for its use in carrying out the purposes described in section 1 of this chapter, subject to the approval of the budget agency.

Sec. 5. The state license branch restroom remodeling fund consists of the following:

(1) Service charges for personalized license plates required under IC 9-29-5-32.5(4).
(2) Money received from any other source, including appropriations."

Renumber all SECTIONS consecutively.
(Reference is to HB 1719 as printed February 25, 2005.)

COCHRAN

Upon request of Representatives Stilwell and Oxley, the Speaker ordered the roll of the House to be called. Roll Call 205: yeas 48, nays 51. Motion failed. The bill was ordered engrossed.

House Bill 1439
Representative T. Brown called down House Bill 1439 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1439–7)
Mr. Speaker: I move that House Bill 1439 be amended to read as follows:

Page 1, delete lines 8 through 9, begin a new line block indented and insert:

"(2) The document either:
(A) shows a photograph of the individual to whom the document was issued; or
(B) was issued by the bureau of motor vehicles under IC 9-24-16-3.5 to an individual who has a religious objection to being photographed."

Page 4, line 3, delete "(H)" and insert "(h)"
Page 11, after line 28, begin a new paragraph and insert:

"SECTION 15. IC 9-24-16-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) The bureau shall issue an identification card to an individual without charge if the individual signs a written statement under the penalties for perjury that states that the individual is indigent and unable to obtain identification without the payment of a fee.
(b) The bureau shall issue an identification card without a photograph or computerized image to an individual who signs a written statement under the penalties for perjury that states that the voter has a religious objection to being photographed.

SECTION 15. IC 9-24-16-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) Except as provided in subsection (b), the fees for the issuance, renewal, or duplication of identification cards under IC 9-24-16 are as follows:
(1) For a person at least sixty-five (65) years of age or a person with a physical disability and not entitled to obtain a driving license, two dollars ($2).
(2) For any other eligible person, four dollars ($4).
(b) The bureau may not charge a fee for the issuance, renewal, or duplication of an identification card for an individual who executes an affidavit under IC 9-24-16-3.5(a)."

(Reference is to HB 1439 as printed February 22, 2005.)

THOMAS
After discussion, Representative Thomas withdrew the motion.

HOUSE MOTION
(Amendment 1439–6)
Mr. Speaker: I move that House Bill 1439 be amended to read as follows:

Page 4, line 3, delete "(H)" and insert "(h)"
Page 11, after line 28, begin a new paragraph and insert:

"SECTION 15. IC 9-24-16-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. The bureau may adopt rules under IC 4-22-2 and prescribe all forms necessary to implement this chapter. However, the bureau may not impose a fee for the issuance of:
(1) an original;
(2) a renewal of an; or
(3) a duplicate;
identification card.

(b) For the purpose of providing adequate and sufficient funds for the crossroads 2000 fund established under IC 8-14-10-9, and subject to subsection (c), after June 30, 1997, with the approval of the bureau of motor vehicles commission the bureau of motor vehicles may adopt rules under IC 4-22-2 to increase, by an amount that is in addition to the fees specified by statute, the fees under the following:
IC 9-29-4-3
IC 9-29-5
IC 9-29-9-1
IC 9-29-9-2
IC 9-29-9-3
IC 9-29-9-4
IC 9-29-9-5
IC 9-29-9-6
IC 9-29-9-7
IC 9-29-9-8
IC 9-29-9-9
IC 9-29-9-10
IC 9-29-9-11
IC 9-29-9-13
IC 9-29-9-14
IC 9-29-15-1
IC 9-29-15-2
IC 9-29-15-3
IC 9-29-15-4

The amount of fees increased under this section shall first be deposited into the crossroads 2000 fund established under IC 8-14-10-9.
(c) The bureau's authority to adopt rules under subsection (b) is subject to the condition that a fee increase must be uniform throughout all license branches and at all partial service locations in Indiana.

SECTION 17. IC 9-29-16-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The fund consists of the following:
(1) Fifty cents ($0.50) of each service charge or fee collected by license branches under the following:
(A) IC 9-29-3-4.
(B) IC 9-29-3-6.
(C) IC 9-29-3-7.
(D) IC 9-29-3-8.
(E) IC 9-29-3-9.
(F) IC 9-29-3-10.
(G) IC 9-29-3-11.
(H) IC 9-29-3-12.
(I) IC 9-29-3-14.
(J) IC 9-29-3-18.
(K) IC 9-29-15-1.
(L) IC 9-29-15-4.
(2) Money deposited with the approval of the budget agency in the fund from any part of:
(A) a service fee established under IC 9-29-3-19; or
(B) an increase of a service fee increased under IC 9-29-3-19.
(3) Money received from any other source, including appropriations.

SECTION 18. THE FOLLOWING ARE REPEALED
and insert:

The bill was reread a second time by title. House Bill 1439 engrossment and returned to second reading.

YEAS 98, NAYS 0. Motion prevailed. The bill was ordered engrossed.

Upon request of Representatives Crawford and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 206: yeas 95, nays 1. Motion prevailed.

HOUSE MOTION
(AMENDMENT 1439-5)

Mr. Speaker: I move that House Bill 1439 be amended to read as follows:

Page 1, between lines 16 and 17, begin a new paragraph and insert: "SECTION 2. IC 3-5-8-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2005]; Sec. 6; Not:

(1) earlier than thirty (30) days; or
(2) later than fifteen (15) days;
before each primary and general election, the secretary of state shall mail to each voter who registered to vote after the most recent primary or general election a mailing describing in detail the requirements of Indiana law for a voter to show proof of identification before being permitted to vote.

Page 11, after line 28, begin a new paragraph and insert: "SECTION 16. [EFFECTIVE JUNE 1, 2005] (a) Notwithstanding IC 3-5-8-6, as added by this act, not:

(1) earlier than thirty (30) days; or
(2) later than fifteen (15) days;
before the 2006 primary election and the 2006 general election, the secretary of state shall send to all registered voters a mailing describing in detail the requirements of Indiana law for a voter to show proof of identification before being permitted to vote.

(b) This SECTION expires January 1, 2007.

Renumber all SECTIONS consecutively.

(Reference is to HB 1439 as printed February 22, 2005.)

Upon request of Representatives Crawford and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 207: yeas 95, nays 0. Motion prevailed. The bill was ordered engrossed.

With consent of the members, House Bill 1439 was recalled from engrossment and returned to second reading.

House Bill 1439

The Speaker handed down House Bill 1439 for second reading. The bill was reread a second time by title.

HOUSE MOTION
(AMENDMENT 1439-2)

Mr. Speaker: I move that House Bill 1439 be amended to read as follows:

Page 1, line 3, after "40.4." insert "(a)".
Page 1, line 4, delete "all" and insert "both of".
Page 1, delete lines 8 through 16, begin a new line block indented and insert:

"(2) The document is any of the following:
(A) A driver's license issued under IC 9-24-11.
(B) An identification card issued under IC 9-24-16.
(C) A document:
(i) issued by the state or by the United States; and
(ii) that shows a photograph of the individual to whom the document was issued.
(D) Form DD214 separation papers.
(E) United States military discharge papers.
(F) A federal W-2 form.
(G) A federal 1099 form.
(H) An identification card issued by a school that shows a photograph of the individual to whom the card was issued.
(I) A Hoosier RX Plan card with the individual's name imprinted.
(J) A valid Indiana gun permit.
(K) A valid Indiana professional or occupational license.
(L) A valid vehicle title issued by the bureau of motor vehicles.
(M) A valid vehicle registration issued by the bureau of motor vehicles.
(N) A valid major credit card or bank card.
(O) A utility bill.
(P) A bank statement.
(Q) A check issued by any of the following:
(i) The United States.
(ii) The state.
(iii) A political subdivision.
(R) A paycheck.

(b) A document that includes an expiration date is acceptable proof of identification under this title if either of the following applies:

(1) The document has not expired.
(2) The document expired after the date of the most recent previous general election.

Page 2, line 3, delete "shall provide proof of identification," and insert "must satisfy this section.".
Page 2, line 7, after "identification" insert "or satisfy subsection (c)".

Page 2, between lines 13 and 14, begin a new line blocked left and insert: "the voter may tell a member of the precinct election board the last four (4) digits of the voter's Social Security number.

(d) If the voter is unable or declines to provide:

(1) a document that qualifies as proof of identification under IC 3-5-2-40.4; or
(2) the last four (4) digits of the voter's Social Security number;

Page 2, line 16, delete "(d)" and insert "(e)".
Page 2, line 22, delete "shall provide proof" and insert "must satisfy this section.".
Page 2, delete line 23.
Page 2, line 26, after "proof of identification" insert "or satisfy subsection (c)".

Page 2, between lines 33 and 34, begin a new line blocked left and insert: "the voter may tell a member of the precinct election board the last four (4) digits of the voter's Social Security number.

(d) If the voter is unable or declines to provide:

(1) a document that qualifies as proof of identification under IC 3-5-2-40.4; or
(2) the last four (4) digits of the voter's Social Security number;

Page 2, line 36, delete "(d)" and insert "(e)".
Page 2, line 40, delete "(e)" and insert "(f)".
Page 3, line 7, delete "(f)" and insert "(g)".
Page 3, line 16, delete "(g)" and insert "(h)".
Page 3, line 23, after "that" insert ", in addition to satisfying subsection (b)".
Page 3, line 23, delete ", in".
Page 3, delete line 24.
Page 3, line 25, delete "(b)".
Page 3, line 25, delete "(b)" and insert "(i)".
Page 3, line 28, delete "(b)" and insert "(i)".
Page 3, line 28, delete "the proof of" and insert "satisfying, .
Page 3, line 29, delete "identification required under".
Page 3, line 38, delete "(j)" and insert "(j)".
Page 3, line 38, delete "(h)" and insert "(i)".
Page 4, line 2, delete "(j)" and insert "(k)".
Page 4, line 3, delete "(H)" and insert "(i)".
Page 4, line 8, delete "(k)" and insert "(l)".

Page 4, line 8,
Page 4, line 11, delete "(l)" and insert "(m)".
Page 4, line 25, delete "(m)" and insert "(n)".
Page 4, line 25, delete "(l)" and insert "(m)".
Page 4, line 31, delete "(n)" and insert "(o)".
Page 4, line 35, after "election" insert "must satisfy this section."
Page 4, delete line 36.
Page 4, line 39, after "proof of identification" insert "or satisfy subsection (d)".
Page 5, between lines 4 and 5, begin a new line blocked left and insert:
"the voter may tell a member of the precinct election board the last four (4) digits of the voter's Social Security number.

(e) If the voter is unable or declines to provide:
(1) a document that qualifies as proof of identification under IC 3-5-2-40.4; or
(2) the last four (4) digits of the voter's Social Security number."
Page 5, line 7, delete "(e)" and insert "(f)".
Page 5, line 11, delete "(f)" and insert "(g)".
Page 5, line 19, delete "(k)" and insert "(l)".
Page 5, line 21, delete "(g)" and insert "(h)".
Page 5, line 29, delete "(h)" and insert "(i)".
Page 5, line 32, delete "(i)" and insert "(j)".
Page 5, line 40, delete "(j)" and insert "(k)".
Page 5, line 40, delete "(g)" and insert "(h):"
Page 6, line 4, delete "(k)" and insert "(l)"
Page 6, line 19, delete "the proof of" and insert "satisfying".
Page 6, line 20, delete "identification required by".
Page 6, line 20, delete "25.1(b)" and insert "25.1(c)".
Page 6, line 22, delete "the proof" and insert "satisfying".
Page 6, line 23, delete "of identification required by".
Page 6, line 23, delete "25.1(b)" and insert "25.1(c)".
Page 9, line 1, after "and" and insert "has satisfied the identification requirements of"
Page 9, delete line 2.
Page 9, line 35, delete "provide proof of" and insert "satisfy the identification requirements; and".
Page 9, delete line 36.
Page 10, line 1, after "identification" insert "or the last four (4) digits of the voter's Social Security number"
Page 10, line 20, delete ":" and insert "is indigent and unable to obtain proof of identification without the payment of a fee;"
Page 10, delete lines 21 through 25.
Page 10, line 28, delete "present proof of" and insert "satisfy".
Page 10, line 28, delete "to the precinct" and insert "requirements.".
Page 10, delete line 29.
Page 10, line 32, delete "provide proof of" and insert "satisfy".
Page 10, line 33, delete "," and insert "requirements.",
Page 10, line 40, delete "provide proof of" and insert "satisfy".
Page 10, line 41, delete "," and insert "requirements.",
Page 11, line 1, delete "the proof of".
Page 11, line 2, delete "requirement;" and insert "requirements;".
Page 11, line 17, delete "provide proof of" and insert "satisfy".
Page 11, line 18, delete "when required" and insert "requirements".
(Reference is to HB 1439 as printed February 22, 2005.)

MAHERN

Upon request of Representatives Stilwell and Mahern, the Speaker ordered the roll of the House to be called. Roll Call 208: yeas 48, nays 51. Motion failed.

HOUSE MOTION
(Amendment 1439–3)

Mr. Speaker: I move that House Bill 1439 be amended to read as follows:
Page 1, between lines 16 and 17, begin a new paragraph and insert:
"SECTION 2. IC 3-7-27-24 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. (a) A county voter registration office must have the ability to create a document that qualifies as proof of identification under IC 3-5-2-40.4:
(1) by taking a photograph of a voter at the county voter registration office; or
(2) from a useable photograph submitted by a voter.
The county voter registration office shall adopt standards for a photograph to be considered useable.
(b) A county voter registration office shall provide to a voter:
(1) at the voter's request; and
(2) at no charge to the voter;
a document that qualifies as proof of identification under IC 3-5-2-40.4.
(c) A county voter registration office complies with this section if the county voter registration office issues a voter registration card under IC 3-7-33-5 that qualifies as proof of identification under IC 3-5-2-40.4.

SECTION 3. IC 3-7-33-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) When the county voter registration office receives an application for a new registration or an application with information that revises or adds information to the applicant's current voter registration record, the county voter registration office shall determine if the applicant appears to be eligible to register to vote based on the information in the application.
(b) As required under 42 U.S.C. 1973gg-6(a)(2), the county voter registration office shall send a notice to each person from whom the county voter registration office receives a voter registration application. The county voter registration office shall send a notice to the applicant at the mailing address provided in the application.
(c) The notice required by subsection (b) must set forth the following:

(1) A statement that the application has been received.
(2) The disposition of the application by the county voter registration office.
(3) If the county voter registration office determines that the applicant appears to be eligible, the notice must state the following:
(A) The applicant is registered to vote under the residence address when the applicant receives the notice. An applicant is presumed to have received the notice unless the notice is returned by the United States Postal Service due to an unknown or insufficient address.
(B) The name of the precinct in which the voter is registered.
(C) The address of the polling place for the precinct in which the voter is registered.
(D) The voter's identification number.
(E) Information describing in detail the requirements of Indiana law for a voter to show proof of identification before being permitted to vote.
(F) A statement telling the applicant that the county voter registration office will provide a document to the voter that qualifies as proof of identification under IC 3-5-2-40.4 at no cost to the voter if the voter does either of the following:
(i) Comes to the county voter registration office during the office's business hours to have the voter's photograph taken. The notice must state the county voter registration office's business hours.
(ii) Sends a useable photograph of the voter to the county voter registration office to be used on the document. The notice must state the requirements for a photograph to be considered a useable photograph.
(4) In accordance with 42 U.S.C. 1973ff-1(d), if the county voter registration office has denied the application, the notice must include the reasons for the denial.
(d) The notice required by subsection (b) may include a voter registration card.
(e) If the notice is returned by the United States Postal Service due to an unknown or insufficient address, the county voter registration office shall determine that the applicant is ineligible and deny the application."

Renumber all SECTIONS consecutively.
(Reference is to HB 1439 as printed February 22, 2005.)

MAHERN

Motion failed. The bill was ordered engrossed.
House Bill 1508

Representative Summers called down House Bill 1508 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1202

Representative V. Smith called down House Bill 1202 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1202–3)

Mr. Speaker: I move that House Bill 1202 be amended to read as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 16-41-37-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 0.5. This chapter does not apply to the following:

1. A private home or residence, unless the home or residence is:
   A. used to provide child care as a licensed child care home under IC 12-17.2-5 or adult day care; or
   B. a health care facility (as defined by IC 16-18-2-161(a)), including a weight loss clinic.

2. A private motor vehicle.

3. A hotel or motel room that is rented to a guest and that is designated as a smoking room. However, not more than twenty-five percent (25%) of the total number of rooms rented to guests may be designated as smoking rooms. The status of a room as a smoking or nonsmoking room may not be changed after June 30, 2005, except to add additional nonsmoking rooms.

4. A building, a room, or an area used primarily for the sale of alcoholic beverages for consumption by guests on the premises and in which the sale of food is incidental to the sale of alcoholic beverages, including a bar, tavern, nightclub, or cocktail lounge.

5. A retail establishment that has as its primary purpose the sale of tobacco products if the retail establishment:
   A. does not allow an individual who is less than eighteen (18) years of age to enter the retail establishment; and
   B. does not allow smoke from the retail establishment to infiltrate into areas where smoking is prohibited.

6. A private and semiprivate room of a health facility licensed under IC 16-28 that is occupied by one (1) or more persons who are all smokers and have requested in writing to be admitted to a room where smoking is permitted, if the smoke from the room does not infiltrate into areas where smoking is prohibited.

7. A building owned and operated by a social, fraternal, or religious organization when the building is:
   A. used by the membership of the organization or a member's guests or family; or
   B. rented for a private social function when the seating arrangements are under the control of the sponsor of the function.

8. Places of employment that are in outdoor areas.

9. A theatrical production site, if the smoking by the performer is an integral part of the performance.

SECTION 2. IC 16-41-37-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. As used in this chapter, "enclosed area" means the space between a floor and ceiling that is enclosed on all sides by solid walls or windows, exclusive of doorways, which extend from the floor to the ceiling.

SECTION 3. IC 16-41-37-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this chapter, "public building" means an enclosed structure or the part of an enclosed structure that is one (1) of the following:

1. Occupied by an agency of state or local government;
2. Used as a classroom building or a dining area at a state educational institution (as defined in IC 20-12-0-5-1);
3. Used as a public school (as defined in IC 20-10-1-1-2);
4. Licensed as a health facility under IC 16-21 or IC 16-28;
5. Used as a station for paid firefighters;
6. Used as a station for paid police officers.

SECTION 6. IC 16-41-37-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The owner, operator, manager, or official in charge of a public building place area used by the general public, regardless of whether an admission fee is charged, including the following:

1. All enclosed areas, including buildings and vehicles, owned, leased, occupied, or operated by an agency of the state or local government.
2. Areas available to and customarily used and patronized by the general public in businesses and nonprofit entities, including service lines and retail service and commercial establishments.
3. Retail stores, department stores, and shopping malls.
4. Banks and financial institutions.
5. Beauty salons and barber shops.
7. Retail food production and marketing establishments.
8. Aquariums, galleries, libraries, and museums.
9. Bingo facilities when a bingo game is in progress.
10. Elevators.
11. Licensed as a child care center or child care home or registered as a child care ministry.
12. Adult day care facilities.
13. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, health facilities licensed under IC 16-28, and other multiunit residential facilities.
15. Public mass transportation facilities, including buses, taxicabs, and trains and ticket, boarding, and waiting areas of public transportation depots.
16. Buildings, structures, and areas used or held out to the public as having food available for purchase to be consumed on the premises, including restaurants, coffee shops, cafeterias, cafes, luncheonettes, sandwich stands, soda fountains, and the bar area within a restaurant area.
17. Rooms, chambers, places of meeting or public assembly, including school buildings.
18. Public and nonpublic schools, vocational schools, and private educational institutions.
19. Sports arenas, including enclosed places in outdoor arenas.
20. Facilities, including theaters, that are open to the public and are primarily used or designed for the purpose of exhibiting a motion picture, stage drama, musical recital, dance, lecture, or similar performance.

SECTION 4. IC 16-41-37-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. As used in this chapter, "smoking" means the:

1. Carrying or holding of a lighted cigarette, cigar, pipe, or any other lighted smoking equipment;
2. Act of lighting or leaving a lighted or smoldering cigarette, cigar, pipe, or any other lighted smoking equipment; or
3. The inhalation or exhalation of smoke from any lighted smoking equipment.

SECTION 5. IC 16-41-37-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. (a) Smoking is prohibited in all public places and areas declared to be a nonsmoking area under subsection (b).

(b) The owner, operator, manager, or other person in control of an establishment, a facility, or an outdoor area may declare that the entire establishment, facility, or outdoor area as a nonsmoking area.
or an area declared to be a nonsmoking area under section 4.5(b) of this chapter shall do the following:

(1) post conspicuous signs at every entrance that read "Smoking Is Prohibited By State Law" Except in Designated Smoking Areas or other similar language.

(2) Request persons who are smoking in violation of section 4 of this chapter to refrain from smoking.

(3) Remove a person who is smoking in violation of section 4 of this chapter and fail to refrain from smoking after being requested to do so.

(b) The proprietor of a restaurant shall, under sections 4 and 5 of this chapter, post conspicuous signs at each entrance to the restaurant, informing the public of the establishment's smoking policy.

SECTION 7. IC 16-41-37-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.5. (a) This chapter may be enforced by the state department or a law enforcement officer, including an enforcement officer of the alcohol and tobacco commission.

(b) An individual may register a complaint for a violation of this chapter with the state department.

(c) The state department and the alcohol and tobacco commission shall inspect a facility or establishment for compliance with this chapter when providing any other inspection required by law.

(d) The owner, operator, manager, or other person in control of a public place or an area declared to be a nonsmoking area under section 4.5(b) of this chapter shall inform persons who violate this chapter of the requirements under this chapter.

SECTION 8. IC 16-41-37-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.5. (a) A person who violates this chapter commits a Class C infraction. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this chapter is a civil penalty of fifty dollars ($50).

(b) An owner, operator, manager, or another person in control of a public place or an area declared to be a nonsmoking area under section 4.5(b) of this chapter who violates this section commits a Class C infraction. Notwithstanding IC 34-28-5-4(e), a civil judgment for an infraction committed under this section must be imposed as follows:

(1) If the person has not been cited for a violation of this section in the previous year, a civil penalty of one hundred dollars ($100).

(2) If the person has had one (1) violation in the previous year, a civil penalty of two hundred dollars ($200).

(3) If the person has had two (2) or more violations in the year, a civil penalty of five hundred dollars ($500).

SECTION 9. IC 16-41-37-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8.5. A person may not discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because the employee, applicant for employment, or customer enforces or exercises any right under this chapter.

SECTION 10. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 16-41-37-2.3; IC 16-41-37-2.7; IC 16-41-37-3.1; IC 16-41-37-4; IC 16-41-37-5; IC 16-41-37-7; IC 16-41-37-8.

SECTION 11. [EFFECTIVE JULY 1, 2005] (a) The legislative services agency shall prepare legislation for introduction in the 2006 session of the general assembly to make conforming changes to statutes as needed to reconcile the statutes with this act.

(b) This SECTION expires June 30, 2007.

(Reference is to HB 1202 as printed February 23, 2005.)

ORENTLICHER

Representative Whetstone rose to a point of order, citing Rule 119, stating that the motion was attempting to substitute a different subject matter in the bill without the written consent of the author and coauthors, Representatives V. Smith, Orentlicher, and Becker. The Speaker ruled the point was well taken and the motion was out of order.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Orentlicher’s amendment (1202–3) is a "strip and insert" motion in violation of House Rule 119.

Amendment 3 and House Bill 1202 have the same subject matter, smoking in public places.

PIERCE ORENTLICHER

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

The question was, Shall the ruling of the Chair be sustained? Roll Call 209: yeas 51, nays 44. The ruling of the Chair was sustained.

The Speaker Pro Tempore yielded the gavel to the Speaker.

HOUSE MOTION

(Amendment 1202–2)

Mr. Speaker: I move that House Bill 1202 be amended to read as follows:

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

"SECTION 1. IC 16-41-37-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 0.5. This chapter does not apply to the following:

(1) A private home or residence, unless the home or residence is providing child care as a licensed child care home under IC 12-17-2-5.

(2) A private motor vehicle, unless the vehicle is being used for:

(A) The public transportation of children; or

(B) Health care or day care transportation.

(3) A limousine used for private hire.

(4) A building owned and operated by a social, fraternal, or religious organization when the building is:

(A) Used by the membership of the organization or a member's guests or family; or

(B) Rented for a private social function when the seating arrangements are under the control of the sponsor of the function.

(5) A guest room in a hotel, motel, bed and breakfast, or similar transient lodging. However, the total percent of the guest rooms that allow smoking may not be more than twenty-five percent (25%) of the total number of guest rooms.

(6) A theatrical production site, if the smoking by the performer is an integral part of the performance.

(7) A medical treatment or research site, if the smoking is integral to the treatment or research being conducted.

(8) A state institution (as defined in IC 12-7-2-184) where smoking is permitted under IC 12-24-2-8(a).

SECTION 2. IC 16-41-37-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this chapter, "public building" means an enclosed structure or the part of an enclosed structure that is one (1) of the following:

(1) Occupied by an agency of state or local government.

(2) Used as a classroom building or a dining area at a state educational institution (as defined in IC 20-12-5.5-1), a vocational school, or a private institution (as defined in IC 20-12-71-20).

(3) Used as a public school (as defined in IC 20-10.1-1-2) or a nonpublic school (as defined in IC 20-10.1-1-3).

(4) Except for a private residence in a health facility, a licensed health facility under IC 16-21 or IC 16-28.

(5) Used as a station for paid firefighters.

(6) Used as a station for paid police officers.

(7) Licensed as a child care center or child care home or registered as a child care ministry under IC 12-17.2.

(8) Licensed as a hospital under IC 16-21 or a county hospital subject to IC 16-22.

(9) Used as a provider's office.

(10) Used as a restaurant or food service establishment,
including a kitchen or catering facility in which food is prepared.
(11) A facility that has a permit under IC 7.1-3 to sell alcoholic beverages to the public.
(12) An indoor sports facility, including a gymnasium, bowling alley, or billiard and pool hall.
(13) A casino or pari-mutuel wagering facility.
(14) A theater, a concert hall, or an auditorium.
(15) A museum or library.
(16) A retail store, an office or other place of work, an indoor shopping mall, a laundromat, a barbershop, a hair salon, or an arcade.
(17) Restrooms, waiting rooms, lobbies, reception areas, elevators, and other common use areas, including common use areas in apartment buildings, condominiums, and other multiunit residential facilities.

SECTION 3. IC 16-41-37-2.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.3. As used in this chapter, "school bus" means a motor vehicle that is:
(1) designed and constructed for the accommodation of at least ten (10) passengers; and
(2) owned or operated by a public or governmental agency or privately owned and operated for compensation, and
(3) used for the transportation of school children to and from the following:
   (A) School;
   (B) School athletic games or contests;
   (C) Other school functions.

Page 1, line 2, delete "(a)."
Page 1, line 4, before "a public" insert "an indoor enclosed area where the general public is invited or permitted or in".
Page 1, strike lines 6 through 10.
Page 1, line 11, strike "(4)" and insert "(2)".
Page 1, line 11, strike "the school bus".
Page 1, strike line 12.
Page 1, line 13, strike "chapter;" and insert "passengers are present; or".
Page 1, between lines 13 and 14, begin a new line block indented and insert:
"(3) in a public means of mass transportation, including a taxicab, train, limousine, or bus, when passengers are present;"
Page 2, delete lines 1 through 3, begin a new paragraph and insert:
"SECTION 5. IC 16-41-37-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (c) If there are sufficient nonsmoking lounges or break rooms to accommodate nonsmokers, the official in charge of a public building shall designate a nonsmoking an indoor enclosed area and may designate a smoking area in the building: indoor enclosed area. However, a designated smoking area must comply with the following requirements:
(1) It may not be accessible to individuals who are less than eighteen (18) years of age.
(2) It must be separated from other parts of the building or structure by a solid floor to ceiling partition.
(3) It must be ventilated, and the air from the smoking area may not be recirculated to other parts of the indoor enclosed area.
(4) Except for custodial or maintenance work performed in the smoking area when it is unoccupied, the smoking area may not be located in an area where an employee is required to enter as part of the employee's work responsibilities.

Motion failed. The bill was ordered engrossed.

House Bill 1797
Representative Pond called down House Bill 1797 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1797–3)
Mr. Speaker: I move that House Bill 1797 be amended to read as follows:
Page 7, delete lines 24 through 42, begin a new paragraph and insert:
"(c) A state educational institution that offers a four (4) year baccalaureate degree shall set tuition rates:
(1) for a two (2) year period;
(2) after the adoption of the state's biennial budget; and
(3) according to the procedure set forth in subsection (d).
(d) The following apply to a state educational institution that is setting tuition rates under subsection (c):
(1) The state educational institution shall hold a public hearing before adopting any proposed tuition increase.
(2) The state educational institution shall give public notice of a hearing required by subdivision (1) at least ten (10) days before the hearing.
(3) A hearing required by subdivision (1) shall be held:
   (A) on or before May 15 of each odd numbered year; or
   (B) fifteen (15) days after the state budget bill is enacted into law, whichever is later.
(4) After a public hearing under subdivision (1), if any, the state educational institution shall set tuition rates for each of the next two (2) academic years. Tuition rates shall be set under this subdivision:
   (A) on or before May 30 of the odd numbered year; or
   (B) thirty (30) days after the state budget bill is enacted into law, whichever is later.
(5) After a state educational institution's tuition rates are set
(e) Each state educational institution that offers a four (4) year baccalaureate degree shall:

1. develop and offer a four (4) year baccalaureate degree completion guarantee program;
2. report annually to the legislative council and the commission for higher education on the status of the program; and
3. state in each annual report prepared under subdivision (2):
   (A) the percentage of the state educational institution's students who are participating in the program; and
   (B) the percentage of the state educational institution's students who have completed the program.

Page 8, delete lines 1 through 12.
(Reference is to HB 1797 as printed February 25, 2005.)

BEHNING

Motion prevailed.

HOUS E MOTI ON
(Amendment 1797–2)

Mr. Speaker: I move that House Bill 1797 be amended to read as follows:

Page 8, between lines 4 and 5, begin a new paragraph and insert:
"(e) An institutional decision to increase a state educational institution's tuition rates and fees by more than four percent (4%) must be:

1. approved by at least two-thirds (2/3) of all members of the state educational institution's board of trustees; and
2. reviewed, after the action of the state educational institution's board of trustees, by the budget committee or the legislative council."

Page 8, line 5, delete "(e)" and insert "(f)".
(Reference is to HB 1797 as printed February 25, 2005.)

BEHNING

On the motion of Representative Yount the previous question was called. Upon request of Representatives Becker and Dobis, the Speaker ordered the roll of the House to be called. Roll Call 210: yeas 53, nays 44. Motion prevailed.

HOUS E MOTI ON
(Amendment 1797–7)

Mr. Speaker: I move that House Bill 1797 be amended to read as follows:

Page 8, between lines 4 and 5, begin a new paragraph and insert:
"(e) If a state educational institution increases tuition rates and fees for an academic year to a level more than four percent (4%) higher than tuition rates and fees for the previous academic year:

1. the state educational institution shall provide an additional financial assistance grant to each student who receives a need-based grant from the state student assistance commission for any part of the academic year; and
2. the additional financial assistance grant provided to a student under subdivision (1) must equal at least the amount by which tuition rates and fees paid by the student will increase due to the state educational institution's increase in tuition rates and fees."

Page 8, line 5, delete "(e)" and insert "(f)".
(Reference is to HB 1797 as printed February 25, 2005.)

MESS ER

The Speaker ordered the roll of the House to be called. Roll Call 211: yeas 40, nays 57. Motion failed. The bill was ordered engrossed.

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House Bill 1607

Representative Noe called down House Bill 1607 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1607–1)

Mr. Speaker: I move that House Bill 1607 be amended to read as follows:

Page 3, line 3, delete "March 1, 2006." and insert "July 1, 2006."
(Reference is to HB 1607 as printed February 18, 2005.)

NOE

Motion prevailed.

HOUSE MOTION
(Amendment 1607–6)

Mr. Speaker: I move that House Bill 1607 be amended to read as follows:

Page 1, line 4, delete "twenty (20)" and insert "twenty-four (24)".
(Reference is to HB 1607 as printed February 18, 2005.)

TURNER

Motion prevailed.

HOUSE MOTION
(Amendment 1607–4)

Mr. Speaker: I move that House Bill 1607 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:
"SECTION 1. IC 16-19-3-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]; Sec. 28. (a) The state department of health shall annually license the office of a physician who performs more than one (1) surgical procedure in the physician's office in a calendar month. The state department of health shall adopt rules under IC 4-22-2 to license the office of a physician under this section.

(b) A physician may not perform a surgical procedure in the physician's office without a license under subsection (a).
(c) A physician who knowingly performs a surgical procedure in the physician's office without a license under this section commits a Class A misdemeanor.

SECTION 2. IC 16-21-2-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]; Sec. 2.5. The state department shall adopt rules under IC 4-22-2 to do the following concerning ambulatory outpatient surgical centers licensed under this chapter:

1. Establish minimum license qualifications.
2. Establish the following requirements:
   (A) Sanitation standards.
   (B) Staff qualifications.
   (C) Necessary emergency equipment.
   (D) Procedures to provide emergency care.
   (E) Quality assurance standards.
   (F) Infection control.
3. Prescribe the operating policies, supervision, and maintenance of medical records.
4. Establish procedures for the issuance, renewal, denial, and revocation of licenses under this chapter. The rules adopted under this subsection must address the following:
   (A) The form and content of the license.
   (B) The collection of an annual license fee."

Page 1, line 15, delete "performs:"
(Reference is to HB 1607 as printed February 18, 2005.)

ORENTLICHER

Upon request of Representatives Turner and Noe, the Speaker ordered the roll of the House to be called. Roll Call 212: yeas 30, nays 69. Motion failed. The bill was ordered engrossed.
House Bill 1743

Representative Budak called down House Bill 1743 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1456

Representative Murphy called down House Bill 1456 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 1456–1)

Mr. Speaker: I move that House Bill 1456 be amended to read as follows:

Page 3, after line 13, begin a new paragraph and insert:

"SECTION 2. IC 5-13-9-5.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.6. (a) Except for investments allowed under section 2(a)(3), 2(f), or 2(g) of this chapter, investments made under this chapter must have a stated final maturity of not more than:

(1) five (5) years for a conservancy district located in a city having a population of more than four thousand six hundred fifty (4,650) but less than five thousand (5,000); (2) five (5) years for investments made from a host community agreement future fund established by ordinance of a town with a population of more than six thousand three hundred (6,300) but less than ten thousand (10,000) located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000); or

(3) except as provided in subsection (b), two (2) years for a fund or political subdivision not described in subdivision (1) or (2); after the date of purchase or entry into a repurchase agreement.

(b) An investment made in a security described in section 2(a)(3) of this chapter must have a stated final maturity of not more than five (5) years from the date of purchase."

MURPHY

Motion prevailed. The bill was ordered engrossed.

House Bill 1714

Representative Moses called down House Bill 1714 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 1714–1)

Mr. Speaker: I move that House Bill 1714 be amended to read as follows:

Page 5, line 35, delete "an".
Page 5, line 36, delete "owner or operator.".

(Reference is to HB 1714 as printed February 22, 2005.)

MOSES

Motion prevailed. The bill was ordered engrossed.

House Bill 1530

Representative Messer called down House Bill 1530 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 1530–1)

Mr. Speaker: I move that House Bill 1530 be amended to read as follows:

Page 5, line 26, delete "school;" and insert "school or home school;".
Page 5, between lines 37 and 38, begin a new paragraph and insert:

"(c) If an individual to whom this section applies:

(1) has not received consent to withdraw from school under this section; and

(2) fails to return to school at the beginning of a semester or during the semester;

the principal of the school that the individual last attended or the individual's parent shall deliver by certified mail or personal delivery to the bureau of child labor and the bureau of motor vehicles a record of the individual's failure to return to school and, for purposes of IC 9-24-2-1 and IC 20-8-1-4-12, the individual shall be considered a dropout.

(d) Upon receiving a record of an individual's failure to return to school under subsection (c), the bureau of child labor shall revoke any employment certificates issued to the individual. Except as provided in subsection (f), the bureau of child labor shall not issue any additional employment certificates to the individual.

(e) Upon receiving a record of an individual's failure to return to school under subsection (c), the bureau of motor vehicles shall revoke any driver's license or learner's permit issued to the individual. Except as provided in subsection (f), the bureau of motor vehicles shall not issue any other driver's license or learner's permit to the individual until the individual is at least eighteen (18) years of age.

(f) If:

(1) the principal of the school that the individual last attended or the individual's parent has delivered the record required under subsection (c) to the bureau of child labor and the bureau of motor vehicles; and

(2) the principal and the parent subsequently give consent to the individual to withdraw from school under this section;

the principal or the parent shall send a notice of consent to withdraw to the bureau of child labor and the bureau of motor vehicles by certified mail or personal delivery, and the individual shall again be eligible for an employment certificate and a driver's license or learner's permit. For purposes of IC 9-24-2-1 and IC 20-8-1-4-12, the individual shall no longer be considered a dropout."

(Reference is to HB 1530 as printed February 25, 2005.)

CHENEY

Upon request of Representatives Messer and Yount, the Speaker ordered the roll of the House to be called. Roll Call 213: yeas 40, nays 56. Motion failed. The bill was ordered engrossed.

House Bill 1799

Representative Pond called down House Bill 1799 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 1799–4)

Mr. Speaker: I move that House Bill 1799 be amended to read as follows:

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

"SECTION 1. IC 20-6.1-3-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9.5. (a) After January 1, 2007, an individual who seeks to renew a license issued under this chapter must demonstrate proficiency in the areas in which the individual is licensed to teach by passing an examination once during each five (5) year period.

(b) The board shall develop and administer the examinations required under this subsection."

TURNER

Renumber all SECTIONS consecutively.

(Reference is to HB 1799 as printed February 15, 2005.)

Mr. Speaker: I move that House Bill 1799 be amended to read as follows:

Page 1, line 8, delete "development;" and insert "development and licensing requirements;".

Page 1, between lines 17 and 18, begin a new line block indented and insert:

"(3) Incentive policies that have the most effect on student achievement."

Mr. Speaker: On the motion of Representative Whetstone the previous question was called. Upon request of Representatives Oxley and Cheney, the Speaker ordered the roll of the House to be called. Roll Call 214: yeas 24, nays 75. Motion failed.
and a place, the education roundtable will meet to discuss and hear objections to and support of the proposed recommendations.

SECTION 3. IC 20-1-21-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. The report must include the following information:

(1) Student enrollment.
(2) Graduation rate (as defined in IC 20-8.1-15-6).
(3) Attendance rate.
(4) The following test scores, including the number and percentage of students meeting academic standards:
   (A) ISTEP test scores.
   (B) Scores for assessments under IC 20-10.1-16-15, if appropriate.
   (C) For a free school, scores on a locally adopted assessment program, if appropriate.
(5) Average class size.
(6) The number and percentage of students in the following groups or programs:
   (A) Alternative education, if offered.
   (B) Vocational education.
   (C) Special education.
   (D) Gifted or talented, if offered.
   (E) Remediation.
   (F) Limited English proficiency.
   (G) Students receiving free or reduced price lunch under the national school lunch program.
(7) Advanced placement, including the following:
   (A) For advanced placement tests, the percentage of students:
       (i) scoring three (3), four (4), and five (5); and
       (ii) taking the test.
   (B) For the Scholastic Aptitude Test:
       (i) test scores for all students taking the test;
       (ii) test scores for students completing the academic honors diploma program; and
       (iii) the percentage of students taking the test.
(8) Course completion, including the number and percentage of students completing the following programs:
   (A) Academic honors diploma.
   (B) Core 40 curriculum.
   (C) Vocational programs.
(9) The percentage of grade 8 students enrolled in algebra I.
(10) The percentage of graduates who pursue higher education.
(11) School safety, including the number of students receiving suspension or expulsion for the possession of alcohol, drugs, or weapons.
(12) Financial information and various school cost factors, including the following:
   (A) Expenditures per pupil.
   (B) Average teacher salary.
   (C) Remediation funding.
(13) Technology accessibility and use of technology in instruction.
(14) Interschool and intraschool student mobility rates, if that information is available.
(15) The number and percentage of each of the following within the school corporation:
   (A) Teachers who are certificated employees (as defined in IC 20-7.5-1-2).
   (B) Teachers who teach the subject area for which the teacher is certified and holds a license.
   (C) Teachers with national board certification.
(16) The percentage of grade 3 students reading at grade 3 level.
(17) The number of students expelled, including the number participating in other recognized education programs during their expulsion.
(18) Chronic absenteeism, which includes the number of students who have been absent more than ten (10) days from school within a school year without being excused.
(19) Other indicators of performance as recommended determined by the education roundtable (IC 20-1-20.5-3).
The department shall develop academic standards for the following subject areas for each grade level from kindergarten through grade 12:

1. English/language arts.
5. Other subject areas as determined by the department.

(b) The department shall revise and update academic standards for each grade level from kindergarten through grade 12 and in each subject area listed in subsection (a) at least once every six (6) years. This revision must occur on a cyclical basis that coincides with the textbook adoption cycle established in IC 20-10.1-9-4.

(c) The state superintendent shall appoint an academic standards committee that is composed of subject area teachers during the period when a subject area is undergoing revision.

(d) An academic standards committee shall submit recommendations on academic standards for a subject area to the education roundtable (IC 20-1-20.5) board for review by the educational roundtable board.

(e) The curriculum program of each grade level from kindergarten through grade 12 in a school in a school corporation must be consistent with the following standards:

1. The academic standards developed under this section.
2. The student competencies developed for the Core 40 college preparation curriculum models established under IC 20-10-1.5-7.

SECTION 5. IC 20-10.2-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The education roundtable shall recommend to the board recommendations for these areas to the board for awarding and distributing grants under this chapter. A system recommended developed under this section must be based on graduated levels of improvement based on ISTEP program standards and other assessments recommended and approved by the education roundtable board.

(b) The department shall begin distributing grants during the 2002-2003 school year.

SECTION 6. IC 20-10.2-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The performance of a school's students on ISTEP and other assessments recommended by the education roundtable and approved by the board are the primary and majority means of assessing a school's improvement.

(b) The education roundtable board shall examine and make recommendations to the board concerning determine:

1. Performance indicators that shall be used as secondary means of determining school progress;
2. Expected progress levels, continuous improvement measures, distributional performance levels, and absolute performance levels for schools; and
3. An orderly transition from the performance based accreditation system to the assessment system set forth in this article.

(c) The education roundtable board shall consider methods of measuring improvement and progress used in other states in developing recommendations under this section.

(d) The education roundtable board shall make recommendations to the board by June 30, 2006.

(e) The board shall adopt rules under IC 4-22-2 to implement the recommendations of the education roundtable by January 1, 2004.

SECTION 7. IC 20-10.2-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) In addition to scores on ISTEP and other assessments, the department shall use the performance indicators developed under section 1 of this chapter and the benchmarks and indicators of performance in each school corporation's annual performance report as secondary means of assessing the improvement of each school and school corporation.

(b) The department shall assess improvement in the following manner:

1. Compare each school and each school corporation to its own prior performance and not to the performance of other schools or school corporations.
2. Compare the actual results in the annual report under IC 20-1-21 with the benchmarks and indicators of performance established in the plan for the same school.
3. Compare the results for a school by comparing each student's results for each grade with the student's prior year results, with an adjustment for student mobility rate. The roundtable shall make recommendations concerning the incorporation of a statistical adjustment for student mobility rates into the results.

(4) Compare the results for a school to the state average and the ninety-fifth percentile level for all assessments and performance indicators.

SECTION 8. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 20-1-20.5-10; IC 20-1-20.5-11; IC 20-1-20.5-12.

Upon request of Representatives Porter and Cheney, the Speaker ordered the roll of the House to be called. Roll Call 216: yeas 47, nays 53. Motion failed. The bill was ordered engrossed.

With consent of the members, the following bills were called down by their respective authors, were read a second time by title, and, there being no amendments, were ordered engrossed: House Bills 1037, 1055, 1235, 1261, 1280, 1304, 1341, 1390, 1428, 1550, 1571, 1582, 1639, 1660, 1669, 1681, 1692, 1696, 1701, 1735, 1836, and 1847.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 8:30 p.m. with the Speaker in the Chair.

House Bill 1812

Representative Lehe called down House Bill 1812 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Motion 1812-11)

Mr. Speaker: I move that House Bill 1812 be amended to read as follows:

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

"SECTION 1. IC 6-3.1-29 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 29. Family Education Tax Credit

Sec. 1. As used in this chapter, "dependent" has the meaning set forth in Section 152(a) of the Internal Revenue Code.

Sec. 2. As used in this chapter, "qualified education expenditures" means expenditures made by a taxpayer during the twelve (12) month period beginning July 1 and ending June 30 of the taxable year for a dependent with respect to a school of choice for any of the following:

1. Fees for academic tuition or instruction.
2. If the dependent is not enrolled in a school that charges tuition, expenditures for computer software, textbooks, workbooks, curricula, school supplies other than personal computers, and other written materials used primarily for academic instruction and for academic tutoring.
3. Expenditures for transporting the dependent to and
from the school of choice in which the dependent is enrolled, excluding transportation for extracurricular activities. However, the total of a taxpayer's expenditures described in this section must be reduced by the amount of a scholarship received under IC 21-1-31 to determine qualified educational expenditures for purposes of sections 6(1) and 7(b)(1) of this chapter.

Sec. 3. As used in this chapter, "school of choice" means: (1) a nonpublic school (as defined in IC 20-10.1-1-3); or (2) a public school (as defined in IC 20-10.1-1-2) in which a dependent is enrolled but that is not the dependent's school of legal settlement for purposes of the general school tuition support formula.

Sec. 4. As used in this chapter, "taxpayer" means: (1) an individual who is; or (2) an individual and the individual's spouse, in the case of a joint return, who are; subject to the adjusted gross income tax.

Sec. 5. This chapter applies to a taxpayer who has a dependent who has legal settlement in a school corporation located in Indiana.

Sec. 6. Except as provided in section 7 of this chapter, a taxpayer who makes qualified education expenditures is entitled to a credit against the adjusted gross income tax imposed by IC 6-3 for the taxable year. The credit to which the taxpayer is entitled for all the taxpayer's dependents combined is equal to the lesser of: (1) the qualified education expenditures of the taxpayer; or (2) the following amount per taxpayer:

<table>
<thead>
<tr>
<th>Taxable Year Ending In</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006 and 2007</td>
<td>$1,000</td>
</tr>
<tr>
<td>2008 and 2009</td>
<td>$1,500</td>
</tr>
<tr>
<td>2010 and 2011</td>
<td>$2,000</td>
</tr>
<tr>
<td>2012 and 2013</td>
<td>$2,500</td>
</tr>
<tr>
<td>2014 and thereafter</td>
<td>$3,000</td>
</tr>
</tbody>
</table>

The credit amount under this subsection with respect to a dependent is reduced by any credit amount with respect to other dependents under section 7 of this chapter.

Sec. 7. (a) This section applies to the determination of a credit for any taxpayer with respect to any dependent who is: (1) not enrolled in a public school in 2005 but who is eligible for enrollment in a public school in 2005; or (2) a member of a household with an annual household income that is more than three hundred fifty percent (350%) of the federal income poverty level as determined annually by the federal Office of Management and Budget under 42 U.S.C. 9902. (b) A taxpayer described in subsection (a) is not entitled to a credit under this chapter for expenditures made before July 1, 2007, with respect to the dependent described in subsection (a). The credit for such a taxpayer for expenditures made with respect to the dependent after June 30, 2007, is equal to the lesser of: (1) the qualified education expenditures of the taxpayer; or (2) the following amount per taxpayer:

<table>
<thead>
<tr>
<th>Taxable Year Ending In</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008 and 2009</td>
<td>$500</td>
</tr>
<tr>
<td>2010 and 2011</td>
<td>$1,000</td>
</tr>
<tr>
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<td>2016 and 2017</td>
<td>$2,500</td>
</tr>
<tr>
<td>2018</td>
<td>$3,000</td>
</tr>
</tbody>
</table>

(c) This section expires for taxable years ending after 2018.

Sec. 8. The department shall develop a process and create forms that will: (1) permit the taxpayer to assign credits under this chapter to the school of choice in which the taxpayer's dependent is enrolled; and (2) allow the school that receives an assignment of credits to claim and receive the amount of the credit as soon as the taxpayer has filed the required income tax return for the taxable year.

Sec. 9. If the amount of the credit provided by this chapter that a taxpayer uses during a particular taxable year exceeds the sum of the taxes imposed on the taxpayer by IC 6-3 for the taxable year after the application of all credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter, the excess shall be returned to the taxpayer as a refund.

Sec. 10. Acceptance by a taxpayer of a credit for qualified education expenditures for a dependent under this chapter does not provide any governmental entity or agency of the state with jurisdiction, authority, or control over the dependent's educational provider.

Page 4, between lines 21 and 22, begin a new paragraph and insert: "SECTION 3. IC 21-1-31 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 31. Freedom to Achieve Scholarship Program

Sec. 1. As used in this chapter, "ADM" has the meaning set forth in IC 21-3-1.6-1.1 and includes adjusted ADM.

Sec. 2. As used in this chapter, "eligible student" means a student who meets the requirements of section 6 of this chapter.

Sec. 3. As used in this chapter, "school of choice" means a nonpublic school (as defined in IC 20-10.1-1-3) or a public school (as defined in IC 20-10.1-1-2) in which a dependent is enrolled but that is not the dependent's school of legal settlement for purposes of the general school tuition support formula, if the school:

(1) is accredited by the state of Indiana or a national accrediting body;
(2) is not required to provide supplemental educational services for its students or to institute corrective action under 20 U.S.C. 6316;
(3) complies with all health and safety laws that apply to public or nonpublic schools, respectively;
(4) holds a valid occupancy permit if required; and
(5) certifies that it will not discriminate in admissions on the basis of race, color, or national origin.

Sec. 4. As used in this chapter, "scholarship" refers to a scholarship program established by section 5 of this chapter.

Sec. 5. There is established the freedom to achieve scholarship program to assist parents and guardians to pay the costs of their child attending a school of choice.

Sec. 6. A student who meets the following requirements is eligible for a scholarship for a school year:

(1) The student was enrolled in a public school during the school year preceding the first school year for which a scholarship is sought.
(2) The public school attended by the student under subdivision (1) was either required to provide supplemental educational services for the student or was required to institute corrective action under 20 U.S.C. 6316 for the year the student attended the public school.
(3) The student has legal settlement in a school corporation located in Indiana.
(4) The student is enrolled in a school of choice for the school year for which a scholarship is sought.
(5) The student is a member of a household with an annual household income that not more than three hundred fifty percent (350%) of the federal income poverty level as determined annually by the federal Office of Management and Budget under 42 U.S.C. 9902.

Sec. 7. The parent or guardian of an eligible student seeking a scholarship must apply to the department. The department shall prescribe the form of the application. The application must be filed after June 15 and before July 16 for a scholarship for the upcoming school year. The department shall make a determination whether an applicant has an eligible student within thirty (30) days after the application is filed. The amount of the scholarship for each eligible student who is enrolled in a school of choice that is a nonpublic school is the lesser of:

(1) the cost of tuition, textbooks, and other mandatory fees, not including fees for extracurricular activities, charged by the school of choice for the eligible student; or
(2) the sum of the average amount per ADM with respect to the public school in which the dependent is eligible for enrollment for:

(A) all components of state tuition support and
categorical grants, except special education grants; plus
(B) the ad valorem property taxes for the school
corporation’s general fund;
for the school year for which the scholarship applies. The
department shall provide the full scholarship amount by paying
equal installments to the school of choice at the same times the
department makes a tuition support distribution to the public
school in which the eligible student has legal settlement. If an
eligible student withdraws from a school of choice, the school of
choice shall notify the department within ten (10) days. The
department shall thereafter terminate payments to the school of
choice for that student.
Sec. 8. To receive a scholarship distribution, a school of choice
must agree with the department to do the following:
(1) Determine before enrolling any potential scholarship
students the specific number of scholarship students that
will be admitted, and, if applicants under the program
exceed the determined number of spaces available at any
particular grade level, conduct a random selection process
to determine those students that are admitted to that grade
level. Exceptions to this random selection may be made to
accommodate siblings of students who are already enrolled
or selected for enrollment in the school.
(2) Not charge any tuition or other fees in excess of the
scholarship amount.
(3) Not charge any tuition or other fees under the
scholarship program that exceed the standard rates charged
to other students who pay tuition to enroll in the school.
(4) Not refund, rebate, or share a student's scholarship with
a parent or the student in any manner.
(5) Use a student's scholarship only for educational
purposes.
(6) Provide regular academic progress reports to the
parents of students enrolled under the scholarship program.
Sec. 9. (a) Notwithstanding the state tuition support formula
and laws governing the counting of pupils in ADM, an eligible
student who:
(1) is enrolled in a school of choice that is a public school; and
(2) is not already being counted in ADM of the school
corporation in which the dependent has legal settlement;
shall, for purposes of calculating tuition support distributions, be
counted as a full additional ADM of the school corporation in
which the public school of choice is located after otherwise
computing the ADM of that school corporation under the state
tuition support formula.
(b) This section applies to a school corporation for purposes of
calculating tuition support distributions regardless of how the
scholarship student might otherwise be treated under the school
funding formula.
Sec. 10. An amount sufficient to provide scholarships and
grants under this chapter shall be paid from the state general
fund.
SECTION 3. [EFFECTIVE JULY 1, 2005] IC 6-3.1-29, as added
by this act, applies to taxable years beginning after December 31,
2005."

Renumber all SECTIONS consecutively.
(Reference is to HB 1812 as printed February 9, 2005.)

Representative Pelath rose to a point of order, citing Rule 118,
stating that the motion was attempting to incorporate into House
Bill 1812 a bill pending before the House. The Speaker ruled the
point was well taken and the motion was out of order.
There being no further amendments, the bill was ordered
engrossed.

House Bill 1435

Representative Hinkle called down House Bill 1435 for second
reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1435–4)
Mr. Speaker: I move that House Bill 1435 be amended to read as
follows:

Page 4, between lines 16 and 17, begin a new line block indented
and insert:

"(8) Two (2) members of the Marion County city-county
council appointed by the chairman of the legislative council
upon the joint recommendation of the president and the
minority leader of the Marion County city-county council.
(9) One (1) member appointed by the chairman of the
legislative council upon the recommendation of the
president of the Marion County Alliance of Neighborhood
Associations.
(10) One (1) member appointed by the chairman of the
legislative council upon the recommendation of the
president of the Greater Indianapolis Chamber of
Commerce.".

Page 5, line 23, delete "assessment" and insert "assistance".
(Reference is to HB 1435 as printed February 22, 2005.)

HINKLE

Motion prevailed.

HOUSE MOTION
(Amendment 1435–3)

Mr. Speaker: I move that House Bill 1435 be amended to read as
follows:

Page 1, line 7, after "9.6" insert "or 27".
Page 2, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 4. IC 6-3.5-6-27 IS ADDED TO THE INDIANA
CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE UPON PASSAGE]: Sec. 27. (a) This section applies
only to Miami County. Miami County possesses unique economic
development challenges due to:
(1) underemployment in relation to similarly situated
counties; and
(2) the presence of a United States government military base
or other military installation that is completely or partially
inactive or closed.
Maintaining low property tax rates is essential to economic
development, and the use of county option income tax revenues
as provided in this chapter to pay any bonds issued or leases
entered into to finance the construction, acquisition,
 improvement, renovation, and equipping described under
subsection (c), rather than use of property taxes, promotes that
purpose.
(b) In addition to the rates permitted by sections 8 and 9 of
this chapter, the county council may impose the county option income
tax at a rate of twenty-five hundredths percent (0.25%) on the
adjusted gross income of resident county taxpayers if the county
council makes the finding and determination set forth in
subsection (c), rather than use of property taxes, promotes that
purpose.
(c) In order to impose the county option income tax as
provided in this section, the county council must adopt an
ordinance finding and determining that revenues from the county
option income tax are needed to pay the costs of financing,
constructing, acquiring, renovating, and equipping a county jail,
including the repayment of bonds issued, or leases entered into,
for financing, constructing, acquiring, renovating, and equipping a
county jail.
(d) If the county council makes a determination under
subsection (c), the county council may adopt a tax rate under
subsection (b). The tax rate may not be imposed at a rate or for
a time greater than is necessary to pay the costs of financing,
constructing, acquiring, renovating, and equipping a county jail.
(e) The county treasurer shall establish a county jail revenue
fund to be used only for the purposes described in this section.
County option income tax revenues derived from the tax rate
imposed under this section shall be deposited in the county jail
revenue fund before making a certified distribution under section
11 of this chapter.
(f) County option income tax revenues derived from the tax
rate imposed under this section:
(1) may only be used for the purposes described in this
section;
(2) may not be considered by the department of local
government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and
(3) may be pledged to the repayment of bonds issued, or leases entered into, for the purposes described in subsection (e).

SECTION 5. IC 6-3.5-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (c), the county economic development income tax may be imposed on the adjusted gross income of county taxpayers. The entity that may impose the tax is:
(1) the county income tax council (as defined in IC 6-3.5-6-1) if the county option income tax is in effect on January 1 of the year the county economic development income tax is imposed;
(2) the county council if the county adjusted gross income tax is in effect on January 1 of the year the county economic development tax is imposed; or
(3) the county income tax council or the county council, whichever acts first, for a county not covered by subdivision (1) or (2).

To impose the county economic development income tax, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax.
(b) Except as provided in subsections (c), (g), (k), (p), and (r) the county economic development income tax may be imposed at a rate of:
(1) one-tenth percent (0.1%);
(2) two-tenths percent (0.2%);
(3) twenty-five hundredths percent (0.25%);
(4) three-tenths percent (0.3%);
(5) thirty-five hundredths percent (0.35%);
(6) four-tenths percent (0.4%);
(7) forty-five hundredths percent (0.45%); or
(8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.
(c) Except as provided in subsection (h), (i), (j), (k), (l), (m), (n), (o), (p), or (s) the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g), (p), (r), or (t) the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

d) To impose, increase, decrease, or rescind the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance to impose the tax must substantially state the following:
*The County imposes the county economic development income tax on the county taxpayers of County. The county economic development income tax is imposed at a rate of _______ percent (%) on the county taxpayers of the county. This tax takes effect July 1 of this year.*
(e) Any ordinance adopted under this chapter takes effect July 1 of the year the ordinance is adopted.
(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this chapter and shall, not more than ten (10) days after the vote, send a certified copy of the results to the commissioner of the department by certified mail.

This subsection applies to a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000). Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:
(1) county economic development income tax may be imposed at a rate of:
(A) fifteen-hundredths percent (0.15%);
(B) two-tenths percent (0.2%); or
(C) twenty-five hundredths percent (0.25%); and
(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

if the county income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.

(h) For a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000), except as provided in subsection (p), 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 one and thirty-five hundredths percent (1.35%) if the county has imposed the county adjusted gross income tax rate at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(i) For a county having a population of more than thirteen thousand five hundred (13,500) but less than fourteen thousand (14,000), except as provided in subsection (p), 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 one and fifty-five hundredths percent (1.55%).

(j) For a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred (71,400), except as provided in subsection (p), 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 one and five-tenths percent (1.5%).

(k) This subsection applies to a county having a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-seven thousand five hundred (27,500). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):
(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and
(2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

If the county council makes a determination to impose rates under this subsection and section 22 of this chapter.

(l) For a county having a population of more than twenty-nine thousand (29,000) but less than thirty thousand (30,000), except as provided in subsection (p), 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 one and five-tenths percent (1.5%).

(m) For:
(1) a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000); or
(2) a county having a population of more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900);

except as provided in subsection (p), 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 one and five-tenths percent (1.5%).

(n) For a county having a population of more than six thousand (6,000) but less than eight thousand (8,000), except as provided in subsection (p), 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 one and five-tenths percent (1.5%).

(o) This subsection applies to a county having a population of more than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):
(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and
(2) the sum of the county economic development income tax rate and:
(A) the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%); or
(B) the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%); if the county council makes a determination to impose rates under this subsection and section 24 of this chapter.
(p) In addition:
(1) the county economic development income tax may be imposed at a rate that exceeds by not more than twenty-five hundredths percent (0.25%) the maximum rate that would otherwise apply under this section; and
(2) the:
(A) county economic development income tax; and
(B) county option income tax or county adjusted gross income tax;
may be imposed at combined rates that exceed by not more than twenty-five hundredths percent (0.25%) the maximum combined rates that would otherwise apply under this section.
However, the additional rate imposed under this subsection may not exceed the amount necessary to mitigate the increased ad valorem property taxes on homesteads (as defined in IC 6-1.1-20.9-1) resulting from the deduction of the assessed value of inventory in the county under IC 6-1.1-12-41 or IC 6-1.1-12-42.
(q) If the county economic development income tax is imposed as authorized under subsection (p) at a rate that exceeds the maximum rate that would otherwise apply under this section, the certified distribution must be used for the purpose provided in section 25(e) or 26 of this chapter to the extent that the certified distribution results from the difference between:
(1) the actual county economic development tax rate; and
(2) the maximum rate that would otherwise apply under this section.
(r) This subsection applies only to a county described in section 27 of this chapter. Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:
(1) county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and
(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);
if the county council makes a determination to impose rates under this subsection and section 27 of this chapter.
(s) Except as provided in subsection (p), 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 one and five-tenths percent (1.5%) if the county has imposed the county adjusted gross income tax under IC 6-3.5-1-3.3.
(t) This subsection applies to Miami County. Except as provided in subsection (p), the sum of the county economic development income tax rate and the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%).
Page 6, between lines 8 and 9, begin a new paragraph and insert:
"SECTION 10. [EFFECTIVE UPON PASSAGE]
Notwithstanding the provisions in IC 6-3.5-6 that indicate that an ordinance establishing or increasing the rate of a county option income tax in 2005 must be adopted before April 1, 2005, an ordinance adopted in 2005 to establish an additional rate under IC 6-3.5-6-27, as added by this act, may be adopted before June 1, 2005. An ordinance under this SECTION must be adopted in the same manner as an ordinance under IC 6-3.5-6. An ordinance adopted under this SECTION is effective on the later of the following:
(1) July 1, 2005.
(2) Fifteen (15) regular business days after the department of state revenue receives a certified copy of the ordinance from the county auditor.".
Renumber all SECTIONS consecutively.
(Reference is to HB 1435 as printed February 22, 2005.)

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

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

House Bill 1090
Representative Frizzell called down House Bill 1090 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1090–10)
Mr. Speaker: I move that House Bill 1090 be amended to read as follows:
Page 2, line 13, delete "after November 7," and insert "before the term to which the individual was elected as a member of the general assembly expires;".
Page 2, delete line 14.
(Reference is to HB 1090 as printed February 23, 2005.)

THOMPSON

Motion prevailed.

HOUSE MOTION
(Amendment 1090–4)
Mr. Speaker: I move that House Bill 1090 be amended to read as follows:
Page 1, between the enacting clause and line 1, begin a new paragraph and insert:
"SECTION 1. IC 2-3-1-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) As used in this section, "maximum daily amount" refers to the maximum daily amount allowable to employees of the executive branch of the federal government for subsistence expenses while away from home in travel status in the Indianapolis area.
(b) Members of the general assembly are entitled, when authorized by the speaker of the house of representatives or the president pro tempore of the senate, to a legislative per diem allowance for each day members are engaged in official business.
(c) The legislative business per diem allowance is as follows:
(1) This subdivision applies only to a legislator who resides fifty (50) or fewer miles from the state capitol building. The legislative business per diem allowance that a legislator is entitled to receive equals forty (40%) of the maximum daily amount.
(2) This subdivision applies only to a legislator who resides more than fifty (50) miles from the state capitol building. The legislative business per diem allowance that a legislator is entitled to receive equals the maximum daily amount.
(d) The legislative business per diem changes each time there is a change in the maximum daily amount."
(Reference is to HB 1090 as printed February 23, 2005.)

FRY

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill.

Representative Fry withdrew the motion.

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

House Bill 1780
Representative Friend called down House Bill 1780 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1780–2)
Mr. Speaker: I move that House Bill 1780 be amended to read as follows:
Between the enacting clause and line 1, begin a new paragraph and insert:
"SECTION 1. IC 14-22-38-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) A person who:
(1) unlawfully takes or possesses a deer or wild turkey;
(2) takes or possesses a deer or wild turkey by illegal methods or with illegal devices; or
(3) except as provided in subsection (c), sells, offers to sell, purchases, or offers to purchase a deer or wild turkey or a part of a deer or wild turkey;"
Representative Burton called down House Bill 1763 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1779

Representative Buell called down House Bill 1779 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1779–1)

Mr. Speaker: I move that House Bill 1779 be amended to read as follows:

Page 4, between lines 6 and 7, begin a new paragraph and insert: "SECTION 2. IC 5-10.2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) For a member who retires with service in more than one (1) retirement fund, the member may choose, at the member's retirement, whether to receive:

(1) a combined retirement benefit from the last retirement fund in which the member rendered service; shall pay the retirement benefits to the member or

(2) a separate retirement benefit from each of the retirement funds in which the member rendered service and has qualified to receive a retirement benefit.

(b) For an member described in subsection (a), at the member's retirement, each retirement fund in which the member rendered service shall compute the member's pension, if any, and annuity, if any, based only on the member's creditable service in that fund. The last retirement fund in which the member rendered service shall also compute:

(1) the member's pension shall be computed and determine the member's vested status shall be determined on the basis of the member's combined creditable service; and

(2) the member's annuity, if any, shall be computed on the basis of amounts credited to the member in annuity savings accounts in all funds.

(c) After receiving the computations under subsection (b), the member shall elect whether to receive:

(1) a separate benefit from each retirement fund in which the member rendered service; or

(2) a combined benefit from the last fund in which the member rendered service.

(d) If the member elects to receive a combined benefit from the last fund in which the member rendered service, the other funds in which the employee was a member shall pay to the fund responsible for payment of benefits:

(1) the amount credited to his the member's retirement account; and

(2) the proportionate actuarial cost of his the member's pension.

(e) A member of the Indiana state teachers' retirement fund who has served as a member of the general assembly and who retires after June 30, 1980, may choose at this the member's retirement date whether to retire from the Indiana state teachers' retirement fund or from the public employees' retirement fund. If this the member chooses to retire from the public employees' retirement fund, that fund is responsible for the payment of benefits provided in IC 5-10.2-4, and the Indiana state teachers' retirement fund shall pay to the public employees' retirement fund:

(1) the amount credited to that member in the annuity savings account in the Indiana state teachers' retirement fund; and

(2) the proportionate actuarial cost of his the member's pension."

Page 5, after line 19, begin a new paragraph and insert:
"SECTION 4. IC 5-10.2-4-8.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8.2. (a) Notwithstanding section 8 of this chapter, if a member who is receiving retirement benefits is elected or appointed to an elected position covered by this article, the member shall file a written, irrevocable election with the board to continue or discontinue retirement benefits while the member holds the elected position.

(b) If a member:
(1) is elected or appointed to an elected position and:
(A) becomes at least fifty (50) years of age; and
(B) completes at least thirty (30) years of service;
(2) is elected or appointed to an elected position and:
(A) becomes at least fifty-five (55) years of age; and
(B) completes at least twenty (20) years of service; or
(3) is serving in any other position covered by this article and:
(A) becomes at least seventy (70) years of age; and
(B) completes at least twenty (20) years of service;
while holding the position, the member may file a written, irrevocable election to begin receiving, while holding the position, retirement benefits to which the member would be entitled by age and service.

A member who does not make the irrevocable election while holding the position is entitled to retroactive payments to cover any period from the date the member qualifies to make the election under this subsection to the date the member files the election under this subsection.

(c) The form and content of an election shall be prescribed by the board. If the member elects to discontinue receiving retirement benefits, the member shall make contributions as required in IC 5-10.2-3-2. If the member elects to continue or begin receiving benefits:
(1) the member may continue to make contributions under IC 5-10.2-3-2 but is not required to do so; and
(2) the member waives the accrual of service credit and the right to any supplemental benefit from service in the position, except to the extent that the value of the accrual of additional service credit and any supplemental benefit exceeds the actuarial value of the benefits received under this chapter and that were continued or begun pursuant to an election under this section.

(d) Except to the extent of the liability for any additional benefit accrued under subsection (c)(2), the employer shall make the employer's contribution only for past service liability based on the salary for the position of a member who elects under subsection (a) or (b) to continue or begin receiving retirement benefits.

(e) Section 10 of this chapter applies to a member who elects under subsection (a) to discontinue receiving retirement benefits. Section 10 of this chapter does not apply, while the member holds a position covered by this article, to a member who elects under subsection (a) or (b) to continue or begin receiving retirement benefits."

Renumber all SECTIONS consecutively.

(Reference is to HB 1779 as printed February 25, 2005.)

Motion prevailed. The bill was ordered engrossed.

House Bill 1596

Representative T. Brown called down House Bill 1596 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1173

Representative Bottoff called down House Bill 1173 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1173–1)

Mr. Speaker: I move that House Bill 1173 be amended to read as follows:
Page 1, after line 11, begin a new paragraph and insert:
"SECTION 2. IC 32-27-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) In selling a completed new home, and in contracting to sell a new home to be completed, the builder may warrant to the initial home buyer the following:

(1) During the two (2) year period beginning on the warranty date, the new home will be free from defects caused by faulty workmanship or defective materials.
(2) During the two (2) year period beginning on the warranty date, the new home will be free from defects caused by faulty installation of:
   (A) plumbing;
   (B) electrical;
   (C) heating;
   (D) cooling; or
   (E) ventilating;
   systems, exclusive of fixtures, appliances, or items of equipment.

(3) During the four (4) year period beginning on the warranty date, the new home will be free from defects caused by faulty workmanship or defective materials in the roof or roof systems of the new home.
(4) During the ten (10) year period beginning on the warranty date, the new home will be free from major structural defects.
(b) The warranties provided in this section (or IC 34-4-20.5-8 or IC 32-15-7 before their repeal) survive the passing of legal or equitable title in the new home to a home buyer.
(c) An individual identified in section (7)(1), (7)(2), or (7)(3) of this chapter who is selling a new home shall notify the purchaser of the home in writing on or before the date of closing or transfer of the new home of:
(1) the warranty date (as defined in IC 32-27-2-7); and
(2) the amount of time remaining under the warranty."

(Reference is to HB 1173 as printed February 22, 2005.)

KUZMAN

Motion prevailed. The bill was ordered engrossed.

House Bill 1695

Representative Behning called down House Bill 1695 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1695–3)

Mr. Speaker: I move that House Bill 1695 be amended to read as follows:
Page 3, after line 39, begin a new paragraph and insert:
"SECTION 2. IC 36-7-13-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10.1. (a) This section applies to a
(1) first class city; or
(2) second class city.
(b) After approval by ordinance or resolution of the legislative body of a city described in subsection (a), the executive of the city may submit an application to an advisory commission on industrial development requesting that one (1) area within the city be designated as a district under section 12.1 of this chapter. However, the total number of districts designated in a city under this chapter after June 30, 2003, (excluding districts designated before July 1, 2003) may not exceed one (1).

SECTION 3. IC 36-7-13-12.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12.1. (a) If the executive of a city described in subsection (a) of this chapter has submitted an application to an advisory commission on industrial development requesting that one (1) area within the city be designated as a district under this chapter and the advisory commission has compiled and prepared the information required under section 11 of this chapter concerning the area, the advisory commission may adopt a resolution designating the area as a district if it finds the following:
(1) That the redevelopment of the area in the district will:
   (A) promote significant opportunities for the gainful employment of its citizens;
   (B) attract a major new business enterprise to the area; or
   (C) retain or expand a significant business enterprise within the area.
(2) That there are significant obstacles to redevelopment of the area due to any of the following problems:
   (A) Obsolete or inefficient buildings.
(B) Aging infrastructure or ineffective utility services.  
(C) Utility relocation requirements.  
(D) Transportation or access problems.  
(E) Topographical obstacles to redevelopment.  
(F) Environmental contamination.  
(G) Lack of development or cessation of growth.  
(H) Deterioration of improvements or character of occupancy, age, obsolescence, or substandard buildings.  
(I) Other factors that have impaired values or prevent a normal development of property or use of property.

(b) To address the obstacles identified in subsection (a)(2), the city municipality may make expenditures for:  
(1) the acquisition of land;  
(2) interests in land;  
(3) site improvements;  
(4) infrastructure improvements;  
(5) buildings;  
(6) structures;  
(7) rehabilitation, renovation, and enlargement of buildings and structures;  
(8) machinery;  
(9) equipment;  
(10) furnishings;  
(11) facilities;  
(12) administration expenses associated with such a project;  
(13) operating expenses; or  
(14) substance removal or remedial action to the area.

(c) In addition to the findings described in subsection (a), an advisory commission must also find that the city described in section 10.1(a) of this chapter municipality has expended, appropriated, pooled, set aside, or pledged at least two hundred fifty thousand dollars ($250,000) for purposes of addressing the redevelopment obstacles described in subsection (a)(2).

(d) The advisory commission shall designate the duration of the district. However, a district must terminate not later than fifteen (15) years after the income tax incremental amount or gross retail incremental amount is first allocated to the district under this chapter.

(e) Upon adoption of a resolution designating a district, the advisory commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. If the budget agency fails to take action on a resolution designating a district within one hundred twenty (120) days after the date that the resolution is submitted to the budget committee, the designation of the district by the resolution is considered approved.

(f) When considering a resolution, the budget committee and the budget agency must make the following findings:

(1) The area to be designated as a district meets the conditions necessary for designation as a district.

(2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(g) The income tax incremental amount and the gross retail incremental amount may not be allocated to the district until the resolution is approved under this section.

Renumber all SECTIONS consecutively.

(Reference is to HB 1695 as printed February 25, 2005.)

Upon request of Representatives Fry and Orentlicher, the Speaker ordered the roll of the House to be called. Roll Call 219: yeas 52, nays 44. Motion prevailed.

HOUSE MOTION  
(Amendment 1695–4)

Mr. Speaker: I move that House Bill 1695 be amended to read as follows:

Page 3, after line 39, begin a new paragraph and insert:

"SECTION 2. IC 36-7-14-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 35. (a) In order to:

(1) undertake survey and planning activities under this chapter;

(2) undertake and carry out any redevelopment project, or urban renewal project, or housing program;

(3) pay principal and interest on any advances;

(4) pay or retire any bonds and interest on them; or

(5) refund loans previously made under this section; the redevelopment commission may apply for and accept advances, short term and long term loans, grants, contributions, and any other form of financial assistance from the federal government, or from any of its agencies. The commission may also enter into and carry out contracts and agreements in connection with that financial assistance upon the terms and conditions that the commission considers reasonable and appropriate, as long as those terms and conditions are not inconsistent with the purposes of this chapter. The provisions of such a contract or agreement in regard to the handling, deposit, and application of project funds, as well as all other provisions, are valid and binding on the unit or its executive departments and officers, as well as the commission, notwithstanding any other provision of this chapter.

(b) The redevelopment commission may issue and sell bonds, notes, or warrants to the federal government to evidence short term or long term loans made under this section, without notice of sale being given or a public offering being made.

(c) Notwithstanding the provisions of this or any other chapter, bonds, notes, or warrants issued by the redevelopment commission under this section may:

(1) be in the amounts, form, or denomination;

(2) be either coupon or registered;

(3) carry conversion or other privileges;

(4) have a rank or priority;

(5) be of such description;

(6) be secured (subject to other provisions of this section) in such manner;

(7) bear interest at a rate or rates;

(8) be payable as to both principal and interest in a medium of payment, at a time or times (which may be upon demand) and at a place or places;

(9) be subject to terms of redemption (with or without premium);

(10) contain or be subject to any covenants, conditions, and provisions; and

(11) have any other characteristics;

that the commission considers reasonable and appropriate.

(d) Bonds, notes, or warrants issued under this section are not an indebtedness of the unit or taxing district within the meaning of any constitutional or statutory limitation of indebtedness. The bonds, notes, or warrants are not payable from or secured by a levy of taxes, but are payable only from and secured only by income, funds, and properties of the project becoming available to the redevelopment commission under this chapter, as the commission specifies in the resolution authorizing their issuance.

(e) Bonds, notes, or warrants issued under this section are exempt from taxation for all purposes.

(f) Bonds, notes, or warrants issued under this section must be executed by the appropriate officers of the unit in the name of the "City (or Town or County) of ____________, Department of Redevelopment", and must be attested by the appropriate officers of the unit.

(g) Following the adoption of the resolution authorizing the issuance of bonds, notes, or warrants under this section, the redevelopment commission shall certify a copy of that resolution to the officers of the unit who have duties with respect to bonds, notes, or warrants of the unit. At the proper time, the commission shall deliver to the officers the unexecuted bonds, notes, or warrants prepared for execution in accordance with the resolution.

(h) All bonds, notes, or warrants issued under this section shall be sold by the officers of the unit who have duties with respect to the sale of bonds, notes, or warrants of the unit. If an officer whose signature appears on any bonds, notes, or warrants issued under this section leaves office before their delivery, the signature remains valid and sufficient for all purposes as if he or she had remained in office until the delivery.

(i) If at any time during the life of a loan contract or agreement under this section the redevelopment commission can obtain loans for the purposes of this section from sources other than the federal government at interest rates not less favorable than provided in the loan contract or agreement, and if the loan contract or agreement so permits, the commission may do so and may pledge the loan contract..."
and any rights under that contract as security for the repayment of the loans obtained from other sources. Any loan under this subsection may be evidenced by bonds, notes, or warrants issued and secured in the same manner as provided in this section for loans from the federal government. These bonds, notes, or warrants may be sold at either public or private sale, as the commission considers appropriate.

(j) Money obtained from the federal government or from other sources under this section, and money that is required by a contract or agreement under this section to be used for project expenditure purposes, repayment of survey and planning advances, or repayment of temporary or definitive loans, may be expended by the redevelopment commission without regard to any law pertaining to the making and approval of budgets, appropriations, and expenditures.

(k) Bonds, notes, or warrants issued under this section are declared to be issued for an essential public and governmental purpose.

SECTION 3. IC 36-7-14-45 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 45. The general assembly finds the following:

(1) There exists within blighted, deteriorated, or deteriorating areas a shortage of safe and affordable housing for persons of low and moderate income.

(2) The planning, replanning, development, and redevelopment of housing within blighted, deteriorated, or deteriorating areas are public and governmental functions that cannot be accomplished through the ordinary operations of private enterprise because of:
   (A) the necessity for the exercise of the power of eminent domain;
   (B) the necessity for requiring the proper use of the land so as to best serve the interests of the county and its citizens; and
   (C) the costs of these projects.

(3) The provision of affordable housing for persons of low or moderate income does not compete with the ordinary operation of private enterprise.

(4) It is in the public interest that work on the provision of housing be commenced as soon as possible to relieve the need for this housing, which constitutes an emergency.

(5) The absence of affordable housing in blighted, deteriorated, or deteriorating areas necessitates excessive and disproportionate expenditures of public funds for crime prevention, public health and safety, fire and accident prevention, and other public services and facilities.

(6) The planning, replanning, development, and redevelopment of housing within blighted, deteriorated, or deteriorating areas will do the following:
   (A) Benefit the health, safety, morals, and welfare of the county and the state.
   (B) Serve to protect and increase property values in the county and the state.
   (C) Benefit persons of low and moderate income by making affordable housing available to them.
   (D) Reduce public expenditures required for governmental functions such as police and fire protection and other services.

(7) The planning, replanning, development, and redevelopment of housing within blighted, deteriorated, or deteriorating areas under this section and sections 46 through 49 of this chapter are:
   (A) necessary in the public interest; and
   (B) public uses and purposes for which public money may be spent and private property may be acquired.

(8) This section and sections 46 through 49 of this chapter shall be liberally construed to carry out the purposes of this chapter.

SECTION 4. IC 36-7-14-46 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 46. (a) The commission may establish a program for housing by resolution. The program, which may include the elements the commission considers appropriate, may be adopted as part of a redevelopment plan or amendment to a redevelopment plan, and must establish an allocation area for purposes of sections 39 and 49 of this chapter for the accomplishment of the program.

(b) The notice and hearing provisions of sections 17 and 17.5 of this chapter apply to the resolution adopted under subsection (a). Judicial review of the resolution may be made under section 18 of this chapter.

(c) Before formal submission of any housing program to the commission, the department shall consult with persons interested in or affected by the proposed program and provide the affected neighborhood associations, residents, and township assessors with an adequate opportunity to participate in an advisory role in planning, implementing, and evaluating the proposed program. The department may hold public meetings in the affected neighborhood to obtain the views of neighborhood associations and residents.

SECTION 5. IC 36-7-14-47 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 47. All the rights, powers, privileges, and immunities that may be exercised by the commission in blighted, deteriorated, or deteriorating areas may be exercised by the commission in implementing its program for housing, including the following:

(1) The special tax levied in accordance with section 27 of this chapter may be used to accomplish the housing program.

(2) Bonds may be issued under this chapter to accomplish the housing program, but only one (1) issue of bonds may be issued and payable from increments in any allocation area except for refunding bonds or bonds issued in an amount necessary to complete a housing program for which bonds were previously issued.

(3) Leases may be entered into under this chapter to accomplish the housing program.

(4) The tax exemptions set forth in section 37 of this chapter are applicable.

(5) Property taxes may be allocated under section 39 of this chapter.

SECTION 6. IC 36-7-14-48 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 48. The commission must make the following findings in the resolution adopting a housing program under section 46 of this chapter:

(1) The program meets the purposes of section 45 of this chapter.

(2) The program cannot be accomplished by regulatory processes or by the ordinary operation of private enterprise because of:
   (A) lack of public improvements;
   (B) existence of improvements or conditions that lower the value of the land below that of nearby land; or
   (C) other similar conditions.

(3) The public health and welfare will be benefited by accomplishment of the program.

(4) The accomplishment of the program will be of public utility and benefit as measured by:
   (A) the provision of adequate housing for low and moderate income persons;
   (B) an increase in the property tax base; or
   (C) other similar public benefits.

(5) At least one-third (1/3) of the parcels in the allocation area have one (1) or more of the following characteristics:
   (A) The dwelling unit on the parcel is not permanently occupied.
   (B) The parcel is the subject of a governmental order, issued under a statute or ordinance, requiring the correction of a housing code violation or unsafe building condition, or an inspection has shown the existence of a housing code violation or unsafe building condition.
   (C) Two (2) or more property tax payments on the parcel are delinquent.
   (D) The parcel is owned by local, state, or federal government.
   (E) The parcel has been the subject of either a
foreclosure or default of a mortgage insured by the United States Department of Housing and Urban Development.

SECTION 7. IC 36-7-14-49 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 49. (a) Notwithstanding section 39(a) of this chapter, with respect to the allocation and distribution of property taxes for the accomplishment of a program adopted under this chapter, "base assessed value" means the net assessed value of all of the land as finally determined for the assessment date immediately preceding the effective date of the allocation provision, as adjusted under section 39(g) of this chapter. However, "base assessed value" does not include the value of real property improvements to the land.

(b) The allocation fund established under section 39(b) of this chapter for the allocation area for a program adopted under section 46 of this chapter may be used only for purposes related to the accomplishment of the program, including the following:

1. The construction, rehabilitation, or repair of residential units within the allocation area.
2. The construction, reconstruction, or repair of infrastructure (such as streets, sidewalks, and sewers) within or serving the allocation area.
3. The acquisition of real property and interests in real property within the allocation area.
4. The demolition of real property within the allocation area.
5. To provide financial assistance to enable individuals and families to purchase or lease residential units within the allocation area. However, financial assistance may be provided only to those individuals and families whose income is at or below the county's median income for individuals and families, respectively.
6. To provide financial assistance to neighborhood development corporations to permit them to provide financial assistance for the purposes described in subdivision (5).
7. To provide each taxpayer in the allocation area a credit for property tax replacement as determined under subsections (c) and (d). However, this credit may be provided by the commission only if the municipal legislative body (in the case of a redevelopment commission established by a municipality) or the county executive (in the case of a redevelopment commission established by a county) establishes the credit by ordinance adopted in the year before the year in which the credit is provided.
8. The maximum credit that may be provided under subsection (b)(7) to a taxpayer in a taxing district that contains all or part of an allocation area established for a program adopted under section 46 of this chapter shall be determined as follows:

STEP ONE: Determine that part of the sum of the amounts described in IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) through IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4(a)(1) that is attributable to the taxing district; by

(B) the amount determined under STEP ONE.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district allocated to the allocation fund, including the amount that would have been allocated but for the credit.

(d) The commission may determine to grant to taxpayers in an allocation area from its allocation fund a credit under this section, as calculated under subsection (c). Except as provided in subsection (g), one half (1/2) of the credit shall be applied to each installment of taxes (as defined in IC 6-1.1-21-2) that under IC 6-1.1-22-9 are due and payable on May 10 and November 10 of a year. The commission must provide for the credit annually by a resolution and must find in the resolution the following:

1. That the money to be collected and deposited in the allocation fund, based upon historical collection rates, after granting the credit will equal the amounts payable for contractual obligations from the fund, plus ten percent (10%) of those amounts.
2. If bonds payable from the fund are outstanding, that there is a debt service reserve for the bonds that at least equals the amount of the credit to be granted.
3. If bonds of a lessor under section 25.2 of this chapter or under IC 36-1-10 are outstanding and if lease rentals are payable from the fund, that there is a debt service reserve for those bonds that at least equals the amount of the credit to be granted.

If the tax increment is insufficient to grant the credit in full, the commission may grant the credit in part, prorated among all taxpayers.

(e) Notwithstanding section 39(b) of this chapter, the allocation fund established under section 39(b) of this chapter for the allocation area for a program adopted under section 46 of this chapter may only be used to do one (1) or more of the following:

1. Accomplish one (1) or more of the actions set forth in section 39(b)(2)(A) through 39(b)(2)(J) of this chapter for property that is residential in nature.
2. Reimburse the county or municipality for expenditures made by the county or municipality in order to accomplish the housing program in that allocation area.

The allocation fund may not be used for operating expenses of the commission.

(f) Notwithstanding section 39(b) of this chapter, the commission shall, relative to the allocation fund established under section 39(b) of this chapter for an allocation area for a program adopted under section 46 of this chapter, do the following before July 15 of each year:

1. Determine the amount, if any, by which property taxes payable to the allocation fund in the following year will exceed the amount of property taxes necessary:
   (A) to make, when due, principal and interest payments on bonds described in section 39(b)(2) of this chapter;
   (B) to pay the amount necessary for other purposes described in section 39(b)(2) of this chapter; and
   (C) to reimburse the county or municipality for anticipated expenditures described in subsection (e)(2).
2. Notify the county auditor of the amount, if any, of excess property taxes that the commission has determined may be paid to the respective taxing units in the manner prescribed in section 39(b)(1) of this chapter.
3. If bond loans for residential property under the rules of the department of local government finance is not included in the base assessed value. If property tax installments with respect to a homestead (as defined in IC 6-1.1-20.9-1) are due in installments established by the department of local government finance under IC 6-1.1-22.9.5, each taxpayer subject to those installments in an allocation area is entitled to an additional credit under subsection (d) for the credits (as defined in IC 6-1.1-21-2) due in installments. The credit shall be applied in the same proportion to each installment of taxes (as defined in IC 6-1.1-21-2), .

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill.

After discussion, Representative Whetstone withdrew the point of order and Representative C. Brown withdrew the motion to amend.

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

House Bill 1343
Representative Becker called down House Bill 1343 for second reading. The bill was read a second time by title.
HOUSE MOTION  
(Amendment 1343–3)  
Mr. Speaker: I move that House Bill 1343 be amended to read as follows:

Page 2, line 31, after "Fraud" insert "or vegetable".
Page 2, line 32, after "fruit" insert "vegetable".
Page 2, line 37, after "Fraud" insert "or vegetable".
Page 2, line 38, after "fruit" insert "vegetable".
Page 3, line 10, delete "fruits" insert "fruits".
(Reference is to HB 1343 as printed February 15, 2005.)

Motion prevailed.

HOUSE MOTION  
(Amendment 1343–2)  
Mr. Speaker: I move that House Bill 1343 be amended to read as follows:

Page 2, line 1, delete "conforms with" and insert "takes into consideration".
Page 3, line 10, delete "fruit" and insert "fruits".
(Reference to HB 1343 as printed February 15, 2005.)

Motion prevailed.

HOUSE MOTION  
(Amendment 1343–4)  
Mr. Speaker: I move that House Bill 1343 be amended to read as follows:

Page 3, line 10, delete "fruits" and insert "fruits".
Page 4, between lines 17 and 18, begin a new paragraph and insert: "SECTION 5. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 20-5-13-11(c), as added by this act, the following percentages of foods and beverages sold at school or on school grounds must qualify as a healthy food or a healthy beverage, as described in IC 20-5-13-11(c), as added by this act:

(1) Twenty percent (20%), beginning July 1, 2005, through June 30, 2006.
(2) Thirty-five percent (35%), beginning July 1, 2006, through June 30, 2007.
(b) This SECTION expires July 1, 2007.".
Renumber all SECTIONS consecutively.

(Reference is to HB 1343 as printed February 15, 2005.)

Motion prevailed.

HOUSE MOTION  
(Amendment 1343–1)  
Mr. Speaker: I move that House Bill 1343 be amended to read as follows:

Page 2, line 30, after "punch," insert "fruit based drinks,;".
Page 2, delete lines 31 through 33.
Page 2, line 34, delete "(C)" and insert "(B)".
Page 2, line 37, delete "fruit based" and insert "Vegetable".
Page 2, line 37, delete "at least fifty" and insert "one hundred".
Page 2, line 38, delete "(50%) real fruit juice or that do not contain additional" and insert "(100%) vegetable juice and that do not exceed sixty (60) calories per eight (8) ounces of juice.".
Page 2, delete line 39.
(Reference to HB 1343 as printed February 15, 2005.)

Motion failed. The bill was ordered engrossed.

House Bill 1522  
Representative Alderman called down House Bill 1522 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 1522–3)  
Mr. Speaker: I move that House Bill 1522 be amended to read as follows:

Delete the title and insert the following:

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

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

"SECTION 1. IC 4-31-2-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10.5. "Live racing day" means a day on which at least eight (8) live horse races are conducted.

SECTION 2. IC 4-31-2-20.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20.7. "Slot machine" has the meaning set forth in IC 4-35-2-9.

SECTION 3. IC 4-31-4-2 IS ADDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A county fiscal body may adopt an ordinance permitting the filing of applications under IC 4-31-5 to conduct pari-mutuel wagering on horse races at racetracks in the county. However, before adopting the ordinance, the county fiscal body must:

(1) conduct a public hearing on the proposed ordinance; and
(2) publish notice of the public hearing in the manner prescribed by IC 5-3-1.
(b) The county fiscal body may:

(1) require in the ordinance adopted by the county fiscal body that before applications under IC 4-31-5 to conduct pari-mutuel wagering on horse races at racetracks in the county may be filed, the voters of the county must approve the conducting of horse racing meetings in the county under section 3 of this chapter; or
(2) amend an ordinance already adopted by the county fiscal body to require that before applications under IC 4-31-5 to conduct pari-mutuel wagering on horse races at racetracks in the county may be filed, the voters of the county must approve the conducting of horse racing meetings in the county under section 3 of this chapter.

An ordinance adopted under this section may not be amended to apply to a person who has already been issued a permit under IC 4-31-5 before amendment of the ordinance.

(c) An ordinance adopted under this section authorizing a person to conduct pari-mutuel wagering on horse races at racetracks in the county may not be adopted or amended in a manner that restricts a person's ability to conduct gambling games under IC 4-35. An ordinance adopted by the county fiscal body permitting slot machines in the county is not a prerequisite for the lawful operation of slot machines under IC 4-35.

SECTION 4. IC 4-31-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The commission shall determine the dates and the number of racing days authorized under each recognized meeting permit. Except for racing at winterized tracks, a recognized meeting may not be conducted after December 10 of a calendar year.
(b) The commission shall require at least one hundred sixty (160) live racing days per calendar year at the racetrack designated in a permit holder's permit as follows:

(1) One hundred (100) live racing days must be for standardbreds.
(2) Sixty (60) live racing days must be for horses mounted by jockeys run over a course without jumps or obstacles.

The requirements of this subsection are a continuing condition for maintaining the permit holder's permit. However, the requirements do not apply if the commission determines that the permit holder is prevented from conducting live horse racing as a result of a natural disaster or other event over which the permit holder has no control.

SECTION 5. IC 4-31-5-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETRANSACTIVE)]: Sec. 3. (a) As used in this section, "live racing day" means a day on which at least eight (8) live horse races are conducted.
(b) The commission's authority to issue satellite facility licenses is subject to the following conditions:

(1) Except as provided in subsection (c), the commission may issue four (4) satellite facility licenses to each permit holder that:

(A) conducts at least one hundred twenty (120) live racing
days per year at the racetrack designated in the permit holder's permit; and

(B) meets the other requirements of this chapter and the rules adopted under this chapter.

If a permit holder that operates satellite facilities does not meet the required minimum number of live racing days, the permit holder may not operate the permit holder's satellite facilities during the following year. However, the requirement for one hundred twenty (120) live racing days does not apply if the commission determines that the permit holder is prevented from conducting live horse racing as a result of a natural disaster or other event over which the permit holder has no control. In addition, if the initial racing meeting conducted by a permit holder commences at such a time as to make it impractical to conduct one hundred twenty (120) live racing days during the permit holder's first year of operations, the commission may authorize the permit holder to conduct simulcast wagering during the first year of operations with fewer than one hundred twenty (120) live racing days.

(2) Each proposed satellite facility must be covered by a separate application. The timing for filing an initial application for a satellite facility license shall be established by the rules of the commission.

(3) A satellite facility must:

(A) have full dining service available;
(B) have multiple screens to enable each patron to view simulcast races; and
(C) be designed to seat comfortably a minimum of four hundred (400) persons.

(4) In determining whether a proposed satellite facility should be approved, the commission shall consider the following:

(A) The purposes and provisions of this chapter.
(B) The public interest.
(C) The impact of the proposed satellite facility on live racing.
(D) The impact of the proposed satellite facility on the local community.
(E) The potential for job creation.
(F) The quality of the physical facilities and the services to be provided at the proposed satellite facility.
(G) Any other factors that the commission considers important or relevant to its decision.

(5) The commission may not issue a license for a satellite facility to be located in a county unless IC 4-31-4 has been satisfied.

(c) After December 31, 2004, a permit holder may not submit an initial application for a license to operate an additional satellite facility under this chapter. After December 31, 2004, the commission may not issue an initial license for a new satellite facility. A satellite facility license issued before January 1, 2005, may be renewed annually subject to the requirements of this chapter.

SECTION 6. IC 4-31-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A person holding a permit to conduct a horse racing meeting or a license to operate a satellite facility may provide a place in the racing meeting grounds or enclosure or the satellite facility at which the person may conduct and supervise the pari-mutuel system of wagering by patrons of legal age on the horse races conducted or simulcast by the person. The person may not permit or use:

(1) another place other than that provided and designated by the person; or
(2) another method or system of betting or wagering.

However, a permit holder licensed to conduct gambling games under IC 4-35 may permit wagering on slot machines at a racetrack as permitted by IC 4-35.

(b) Except as provided in section 7 of this chapter and IC 4-31-5.5, the pari-mutuel system of wagering may not be conducted on any races except the races at the racetrack, grounds, or enclosure for which the person holds a permit.

SECTION 7. IC 4-31-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A person less than eighteen (18) years of age may not wager at a horse racing meeting.

(b) A person less than seventeen (17) eighteen (18) years of age may not enter the grandstand, clubhouse, or similar areas of a racetrack at which wagering is permitted unless accompanied by a person who is at least twenty-one (21) years of age.

(c) A person less than eighteen (18) years of age may not enter a satellite facility.

(d) Except as provided by IC 4-35-7-2, a person less than twenty-one (21) years of age may not enter the part of a racetrack in which gambling games are conducted under IC 4-35.

SECTION 8. IC 4-31-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. A person that holds a permit to conduct a horse racing meeting or a license to operate a satellite facility shall withhold:

(1) eight percent (8%) of the total of money wagered on each day at the racetrack or satellite facility (including money wagered on exotic wagering pools, but excluding money wagered on slot machines under IC 4-35); plus
(2) an additional three and one-half percent (3.5%) of the total of all money wagered on exotic wagering pools on each day at the racetrack or satellite facility.

Page 1, between lines 10 and 11, begin a new paragraph and insert:

"SEC TION 10. IC 4-33-2-17.5 IS ADD ED TO THE INDIANA CODE AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17.5, "Slot machine taxes" means the state wagering tax imposed on gambling games conducted by a person holding a gambling games license issued under IC 4-35-5."

SECTION 11. IC 4-33-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The commission shall adopt rules under IC 4-22-2 for the following purposes:

(1) Administering this article.
(2) Establishing the conditions under which riverboat gambling in Indiana may be conducted.
(3) Providing for the prevention of practices detrimental to the public interest and providing for the best interests of riverboat gambling.
(4) Establishing rules concerning inspection of riverboats and the review of the permits or licenses necessary to operate a riverboat.
(5) Imposing penalties for noncriminal violations of this article.
(6) Establishing the conditions under which gambling games may be conducted under IC 4-35."

Page 5, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 19. IC 4-33-12-6, AS AMENDED BY P.L.4-2005, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The department shall place in the state general fund the tax revenue collected under this chapter.
(b) Except as provided by subsections (c) and (d) of IC 6-3.1-20-7, the treasurer of state shall quarterly pay the following amounts:

(1) Except as provided in subsection (k), one dollar ($1) of the admissions tax collected by the licensed owner for each person embarking on a gambling excursion during the quarter or admitted to a riverboat that has implemented flexible scheduling under IC 4-33-6-21 during the quarter shall be paid to:
   (A) the city in which the riverboat is docked, if the city:
      (i) is located in a county having a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000); or
      (ii) is contiguous to the Ohio River and is the largest city in the county; and
   (B) the county in which the riverboat is docked, if the riverboat is not docked in a city described in clause (A).
(2) Except as provided in subsection (k), one dollar ($1) of the admissions tax collected by the licensed owner for each person:
   (A) embarking on a gambling excursion during the quarter; or
   (B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21; shall be paid to the county in which the riverboat is docked. In the case of a county described in subdivision (1)(B), this one dollar ($1) is in addition to the one dollar ($1) received under
in a historic hotel district, the treasurer of state shall quarterly pay the
February 28, 2005 House 477
(c) With respect to tax revenue collected from a riverboat located in
a county having a population of more than twenty thousand (20,000), the treasurer of state shall quarterly pay the following amounts:
(1) Except as provided in subsection (k), one dollar ($1) of the
admissions tax collected by the licensed owner for each person:
(A) embarking on a gambling excursion during the quarter;
or
(B) admitted to a riverboat during the quarter that has
implemented flexible scheduling under IC 4-33-6-21;
shall be paid to the county convention and visitors bureau or
promotion fund for the county in which the riverboat is docked.
(4) Except as provided in subsection (k), fifteen cents ($0.15) of
the admissions tax collected by the licensed owner for each person:
(A) embarking on a gambling excursion during the quarter;
or
(B) admitted to a riverboat during the quarter that has
implemented flexible scheduling under IC 4-33-6-21;
shall be distributed to the money received under
this clause to one (1) or more taxing units (as defined in
IC 6-1.1-1-21) in the county under a formula established by
the county fiscal body after receiving a recommendation from
the county executive.
(C) Sixty percent (60%) shall be retained by the county
where the riverboat is docked for appropriation by the county
fiscal body after receiving a recommendation from the
county executive. The county fiscal body shall provide for
the distribution of part or all of the money received under
this clause to the following under a formula established by
the county fiscal body:
(i) A town having a population of more than two thousand
two hundred (2,200) but less than three thousand
five hundred (3,500) located in a county having
a population of more than nine thousand
three hundred (9,300) but less than twenty
thousand (20,000).
(ii) A town having a population of more than three
thousand five hundred (3,500) located in a
county having a population of more than
nineteen thousand three hundred
(19,300) but less than twenty thousand
(20,000).
(2) Sixteen percent (16%) of the admissions tax collected
during the quarter shall be paid in equal amounts to each town that:
(A) is located in the county in which the riverboat docks; and
(B) contains a historic hotel.
The town council shall appropriate a part of the money received
by the town under this subdivision to the budget of the town's
tourism commission.
(3) Nine percent (9%) of the admissions tax collected
during the quarter shall be paid to the historic hotel preservation
commission established under IC 36-7-11.5.
(4) Twenty-five percent (25%) of the admissions tax collected
during the quarter shall be paid to the West Baden Springs
historic hotel preservation and maintenance fund established by
IC 36-7-11.5-11(b).
(5) Twenty-five percent (25%) of the admissions tax collected
during the quarter shall be paid to the Indiana economic
development corporation to be used by the corporation for the
development and implementation of a regional economic
development strategy to assist the residents of the county in
which the riverboat is located and residents of contiguous counties
in improving their quality of life and to help promote
successful and sustainable communities. The regional economic
development strategy must include goals concerning the
following issues:
(A) Job creation and retention.
(B) Infrastructure, including water, wastewater, and storm
water infrastructure needs.
(C) Housing.
(D) Workforce training.
(E) Health care.
(F) Local planning.
(G) Land use.
(H) Assistance to regional economic development groups.
(I) Other regional development issues as determined by
the Indiana Economic Development Corporation.
shall be paid to the county in which the riverboat is docked.

(3) Except as provided in subsection (k), nine cents ($0.09) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county convention and visitors bureau or promotion fund for the county in which the riverboat is docked.

(4) Except as provided in subsection (k), one cent ($0.01) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the northwest Indiana law enforcement training center.

(5) Except as provided in subsection (k), fifteen cents ($0.15) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the Indiana horse racing commission to be distributed as follows, in amounts determined by the Indiana horse racing commission, for the promotion and operation of horse racing in Indiana:

(A) To one (1) or more breed development funds established by the Indiana horse racing commission under IC 4-31-11-10.

(B) To a racetrack that was approved by the Indiana horse racing commission under IC 4-31. The commission may make a grant under this clause only for purses, promotions, and routine operations of the racetrack. No grants shall be made for long term capital investment or construction, and no grants shall be made before the racetrack becomes operational and is offering a racing schedule.

(c) Money paid to a unit of local government under subsection (b)(1) through (b)(2), (c)(1) through (c)(2), or (d)(1) through (d)(2):

(1) must be paid to the fiscal officer of the unit and may be deposited in the unit's general fund or riverboat fund established under IC 36-1-8-9, or both;

(2) may not be used to reduce the unit's maximum levy under IC 6-1.1-18.5 but may be used at the discretion of the unit to reduce the property tax levy of the unit for a particular year;

(3) may be used for any legal or corporate purpose of the unit, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4; and

(4) is considered miscellaneous revenue.

(f) Money paid by the treasurer of state under subsection (b)(3) or (d)(3) shall be:

(1) deposited in:

(A) the county convention and visitor promotion fund; or

(B) the county's general fund if the county does not have a convention and visitor promotion fund; and

(2) used only for the tourism promotion, advertising, and economic development activities of the county and community.

(g) Money received by the division of mental health and addiction under subsections (b)(5) and (d)(6):

(1) is annually appropriated to the division of mental health and addiction;

(2) shall be distributed to the division of mental health and addiction at times during each state fiscal year determined by the budget agency; and

(3) shall be used by the division of mental health and addiction for programs and facilities for the prevention and treatment of addictions to drugs, alcohol, and compulsive gambling, including the creation and maintenance of a toll free telephone line to provide the public with information about these addictions. The division shall allocate at least twenty-five percent (25%) of the money received to the prevention and treatment of compulsive gambling.

(h) This subsection applies to the following:

(1) Each entity receiving money under subsection (b).

(2) Each entity receiving money under subsection (d)(1) through (d)(2).

(3) Each entity receiving money under subsection (d)(5) through (d)(7).

The treasurer of state shall determine the total amount of money paid by the treasurer of state to an entity subject to this subsection during the state fiscal year 2002. The amount determined under this subsection is the base year revenue for each entity subject to this subsection. The treasurer of state shall certify the base year revenue determined under this subsection to each entity subject to this subsection.

(i) This subsection applies to an entity receiving money under subsection (d)(3) or (d)(4). The treasurer of state shall determine the total amount of money paid by the treasurer of state to the entity described in subsection (d)(3) during state fiscal year 2002. The amount determined under this subsection multiplied by nine-tenths (0.9) is the base year revenue for the entity described in subsection (d)(3). The amount determined under this subsection multiplied by one-tenth (0.1) is the base year revenue for the entity described in subsection (d)(4). The treasurer of state shall certify the base year revenue determined under this subsection to each entity subject to this subsection.

(j) This subsection does not apply to an entity receiving money under subsection (c). For state fiscal years beginning after June 30, 2002, the total amount of money distributed to an entity under this section during a state fiscal year may not exceed the entity's base year revenue as determined under subsection (h) or (i). If the treasurer of state determines that the total amount of money distributed to an entity under this section during a state fiscal year is less than the entity's base year revenue, the treasurer of state shall make a supplemental distribution to the entity under IC 4-33-13-5(g).

(k) This subsection does not apply to an entity receiving money under subsection (c). For state fiscal years beginning after June 30, 2002, the treasurer of state shall pay that part of the riverboat admissions taxes that:

(1) exceed a particular entity's base year revenue; and

(2) would otherwise be due to the entity under this section;

to the property tax replacement fund instead of to the entity.

(l) The maximum amount paid to the Indiana horse racing commission under this section in a state fiscal year ending before July 1, 2007, may not exceed the remainder of:

(1) the Indiana horse racing commission's base year revenue as determined under subsection (h); minus

(2) the amount of slot machine taxes, if any, paid to the Indiana horse racing commission under IC 4-35-8-3 in the state fiscal year.

For a state fiscal year ending before July 1, 2007, the treasurer of state shall pay the amount of the admissions taxes equal to the amount of slot machine taxes, if any, subtracted from the Indiana horse racing commission's base year revenue under this subsection to the property tax replacement fund instead of to the Indiana horse racing commission. For a state fiscal year
beginning after June 30, 2007, the Indiana horse racing commission is not entitled to a distribution of admissions taxes collected under this chapter. After June 30, 2007, the treasurer of state shall pay the admissions taxes specified in subsections (b)(6) and (d)(7) to the property tax replacement fund instead of to the Indiana horse racing commission.

SECTION 20. IC 4-33-18-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Nothing in this chapter may be construed to limit the powers or responsibilities of:
(1) the Indiana state lottery commission under IC 4-30;
(2) the Indiana horse racing commission under IC 4-31;
(3) the department of state revenue under IC 4-32; or
(4) the Indiana gaming commission under IC 4-33 or IC 4-35.
(b) The department may not exercise any administrative or regulatory powers with respect to:
(1) the Indiana lottery under IC 4-30;
(2) pari-mutuel horse racing under IC 4-31;
(3) charity gaming under IC 4-32; or
(4) riverboat casino gambling under IC 4-33; or
(5) gambling games conducted at a racetrack (as defined by IC 4-35-2-8) under IC 4-35.

SECTION 21. IC 4-35 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:
ARTICLE 35. GAMBLING GAMES AT RACETRACKS
Chapter 1. Application
Sec. 1. This article applies only to gambling games conducted by a permit holder holding a gambling games license issued under IC 4-35-5.

Chapter 2. Definitions
Sec. 1. The definitions in this chapter apply throughout this article.
Sec. 2. "Adjusted gross receipts" means:
(1) the total of all cash and property (including checks received by a permit holder, whether collected or not) received by a permit holder from gambling games; minus
(2) the total of:
(A) all cash paid out to patrons as winnings for gambling games; and
(B) uncollectible gambling game receivables, not to exceed the lesser of:
(i) a reasonable provision for uncollectible patron checks received from gambling games; or
(ii) two percent (2%) of the total of all sums, including checks, whether collected or not, less the amount paid out to patrons as winnings for gambling games.

For purposes of this section, a counter or personal check that is invalid or unenforceable under this article is considered cash received by the permit holder from gambling games.

Sec. 3. "Capital improvement board" refers to the capital improvement board of managers created under IC 36-10-9.
Sec. 4. "Commission" refers to the Indiana gaming commission established by IC 4-33-3-1.
Sec. 5. "Department" refers to the department of state revenue.
Sec. 6. "Gambling game" means a slot machine.
Sec. 7. "Permit holder" means a person holding a permit issued under IC 4-31-5 to conduct a pari-mutuel horse racing meeting.
Sec. 8. "Racetrack" means the racetrack specified in a permit holder's permit to conduct a pari-mutuel horse racing meeting.
Sec. 9. "Slot machine" means a type of electronic gaming device approved by the commission as a wagering device for use under this article.
Sec. 10. "Supplier's license" means a license issued under IC 4-35-6.

Sec. 1. All shipments of slot machines to permit holders in Indiana, the registering, recording, and labeling of which have been completed by the manufacturer or dealer in accordance with 15 U.S.C. 1171 through 15 U.S.C. 1178, are legal shipments of gambling devices into Indiana.
Sec. 2. Under 15 U.S.C. 1172, approved January 2, 1951, the state of Indiana, acting by and through elected and qualified members of the general assembly, declares that the state is exempt from 15 U.S.C. 1172.

Chapter 4. Powers and Duties of the Indiana Gaming Commission
Sec. 1. The commission shall regulate and administer gambling games conducted by a permit holder licensed to conduct gambling games under this article.
Sec. 2. The commission shall do the following:
(1) Adopt rules that the commission determines necessary to protect or enhance the following:
(A) The credibility and integrity of gambling games authorized by this article.
(B) The regulatory process provided in this article.
(2) Conduct all hearings concerning civil violations of this article.
(3) Provide for the establishment and collection of license fees imposed under this article.
(4) Deposit the license fees in the state racetrack gaming fund established by IC 4-35-8-2.
(5) Levy and collect penalties for noncriminal violations of this article.
(6) Deposit the penalties in the state racetrack gaming fund established by IC 4-35-8-2.
(7) Adopt appropriate standards for the design, appearance, aesthetics, and construction of slot machine facilities authorized under this article.

Sec. 3. The commission shall adopt rules under IC 4-22-2 for the following purposes:
(1) Administering this article.
(2) Establishing the conditions under which gambling games at racetracks may be conducted.
(3) Providing for the prevention of practices detrimental to the public interest.
(4) Establishing rules concerning inspection of gambling game facilities at racetracks and the review of the permits or licenses necessary to conduct gambling games under this article.
(5) Imposing penalties for noncriminal violations of this article.

Sec. 4. The commission may enter into a contract with the Indiana horse racing commission for the provision of services necessary to administer this article.

Chapter 5. Gambling Game License
Sec. 1. The commission may issue a license to a permit holder to conduct gambling games under this article at a racetrack. The number of licenses issued under this chapter may not exceed two (2).
Sec. 2. Before issuing a license to a permit holder under this chapter, the commission shall subject the permit holder to a background investigation similar to a background investigation required for an applicant for a riverboat owner's license under IC 4-33-6.
Sec. 3. In determining whether to issue a gambling games license to an applicant, the commission shall consider the following:
(1) The character, reputation, experience, and financial integrity of the following:
(A) The applicant.
(B) A person that:
(i) directly or indirectly controls the applicant; or
(ii) is directly or indirectly controlled by the applicant or by a person that directly or indirectly controls the applicant.
(2) The facilities or proposed facilities for the conduct of gambling games at a racetrack. The applicant must submit to the commission a proposed design of the slot machine facilities.
(3) The prospective total revenue to be collected by the state from the conduct of gambling games under this article.
(4) The good faith affirmative action plan of each applicant to recruit, train, and upgrade minorities in all employment classifications.
(5) The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance.
(6) Whether the applicant has adequate capitalization to operate a slot machine facility for the duration of the license period.

(7) The extent to which the applicant exceeds or meets other standards adopted by the commission.

Sec. 4. (a) A permit holder must post a bond with the commission at least sixty (60) days before the commencement of regular slot machine operations under this article.

(b) The bond must be furnished in:
   (1) cash or negotiable securities;
   (2) a surety bond:
      (A) with a surety company approved by the commission; and
      (B) guaranteed by a satisfactory guarantor; or
   (3) an irrevocable letter of credit issued by a banking institution of Indiana acceptable to the commission.

(c) If a bond is furnished in cash or negotiable securities, the principal shall be placed without restriction at the disposal of the commission, but income inures to the benefit of the permit holder.

(d) The bond:
   (1) is subject to the approval of the commission;
   (2) must be in an amount that the commission determines will adequately reflect the amount that a local community will expend for infrastructure and other facilities associated with a slot machine operation; and
   (3) must be payable to the commission as obligee for use in payment of the permit holder's financial obligations to the local community, the state, and other aggrieved parties, as determined by the rules of the commission.

Any bond proceeds remaining after the payments shall be deposited in the state general fund.

(e) If after a hearing (after at least five (5) days written notice) the commission determines that the amount of a permit holder's bond is insufficient, the permit holder shall, upon written demand of the commission, file a new bond.

(f) The commission may require a permit holder to file a new bond with a satisfactory surety in the same form and amount if:
   (1) liability on the old bond is discharged or reduced by judgment rendered, payment made, or otherwise; or
   (2) in the opinion of the commission any surety on the old bond becomes unsatisfactory.

(g) If a new bond obtained under subsection (e) or (f) is unsatisfactory, the commission shall revoke the permit holder's gambling games license. If the new bond is satisfactorily furnished, the commission shall release in writing the surety on the old bond from any liability accruing after the effective date of the new bond.

(h) A bond is released on the condition that the permit holder remains at the site of the slot machine operation:
   (1) for five (5) years; or
   (2) until the date the commission issues a license to another person to operate from the site for which the bond was posted;

whichever occurs first.

(i) A permit holder who does not meet the requirements of subsection (h) forfeits a bond filed under this section. The proceeds of a bond that is in default under this subsection are paid to the commission and used in the same manner as specified in subsection (d).

(j) The total liability of the surety on a bond is limited to the amount specified in the bond, and the continuous nature of the bond may not be construed as allowing the liability of the surety under a bond to accumulate for each successive approval period during which the bond is in force.

(k) A bond filed under this section is released sixty (60) days after:
   (1) the time specified under subsection (h); and
   (2) a written request is submitted by the permit holder.

Sec. 5. An initial gambling game license expires five (5) years after the effective date of the license. Unless the gambling game license is terminated or revoked, the gambling game license may be renewed annually thereafter upon:

(1) the payment of a five thousand dollar ($5,000) annual renewal fee; and

(2) a determination by the commission that the permit holder satisfies the conditions of this chapter.

Sec. 6. (a) A permit holder shall undergo a complete investigation every three (3) years to determine whether the permit holder remains in compliance with this article.

(b) Notwithstanding subsection (a), the commission may investigate a permit holder at any time the commission determines it is necessary to ensure that the permit holder remains in compliance with this article.

Sec. 7. A permit holder shall bear the cost of an investigation or a reinvestigation of the permit holder and any investigation resulting from a potential transfer of ownership.

Sec. 8. (a) A permit holder, or any other person, must apply for and receive the commission's approval before:

(1) a gambling games license is:
   (A) transferred;
   (B) sold; or
   (C) purchased; or

(2) a voting trust agreement or other similar agreement is established with respect to the gambling games license.

(b) The commission shall adopt rules governing the procedure a permit holder or other person must follow to take an action under subsection (a). The rules must specify that a person who obtains an ownership interest in a license must meet the criteria of this article and any rules adopted by the commission. A permit holder may transfer a gambling games license only in accordance with this article and rules adopted by the commission.

(c) A permit holder or any other person may not:
   (1) lease;
   (2) hypothecate; or
   (3) borrow or loan money against;

a gambling games license.

(d) A transfer fee is imposed on a person who purchases or otherwise acquires a controlling interest, as determined under the rules of the commission, in a gambling games license previously issued to another person. The fee is equal to two million dollars ($2,000,000). The commission shall collect and deposit a fee imposed under this subsection in the state general fund.

Chapter 6. Slot Machine Suppliers

Sec. 1. The commission may issue a supplier's license under this chapter to a person if:

(1) the person has:
   (A) applied for the supplier's license;
   (B) paid a nonrefundable application fee set by the commission;
   (C) paid a five thousand dollar ($5,000) annual supplier's license fee; and
   (D) submitted, on forms provided by the commission, two sets of:
      (i) the individual's fingerprints, if the applicant is an individual; or
      (ii) fingerprints for each officer and director of the applicant, if the applicant is not an individual; and

(2) the commission has determined that the applicant is eligible for a supplier's license.

Sec. 2. (a) A holder of a supplier's license issued under this chapter may sell, lease, and contract to sell or lease slot machines to a permit holder and to any other person.

(b) Slot machines may not be distributed unless the slot machines conform to standards adopted by the commission.

Sec. 3. A person may not receive a supplier's license under this chapter if:

(1) the person has been convicted of a felony under Indiana law, the laws of any other state, or the laws of the United States;

(2) the person has knowingly or intentionally submitted an application for a supplier's license under this chapter that contains false information;

(3) the person is a member of the commission;

(4) the person is an officer, a director, or a managerial employee of a person described in subdivision (1) or (2);

(5) the person employs an individual who:
   (A) is described in subdivision (1), (2), or (3); and
   (B) participates in the management or operation of
Sec. 1. Gambling games authorized by this article may not be conducted anywhere other than a slot machine facility located at a racetrack.

Sec. 2. (a) A person less than twenty-one (21) years of age may not wager on a slot machine.

(b) Except as provided in subsection (c), a person who is less than twenty-one (21) years of age may not be present in the area of a racetrack where gambling games are conducted.

(c) A person who is at least eighteen (18) years of age and who is an employee of the racetrack may be present in the area of the racetrack where gambling games are conducted. However, an employee who is less than twenty-one (21) years of age may not perform any function involving gambling by the patrons.

Sec. 3. Minimum and maximum wagers on gambling games shall be determined by the permit holder who has been issued a gambling license under this article.

Sec. 4. The following may inspect a racetrack's slot machine facilities at any time to determine if this article is being violated:

(1) Employees of the commission.

(2) Officers of the state police department.

Sec. 5. Employees of the commission have the right to be present in the slot machine facilities of a permit holder.

Sec. 6. Slot machines may be purchased or leased only from suppliers licensed under this article.

Sec. 7. A permit holder may not permit any form of wagering except:

(1) Slot machine wagering as permitted under this article; and

(2) Pari-mutuel wagering as permitted under IC 4-31.

Sec. 8. Wagers may be received only from a person present in a racetrack's slot machine facilities. A person present in a racetrack's slot machine facilities may not place or attempt to place a wager on behalf of another person who is not present in the racetrack's slot machine facilities.

Sec. 9. Wagering may not be conducted with money or other negotiable currency.

Sec. 10. (a) All tokens or electronic cards that are used to make wagers must be purchased from a permit holder at a racetrack.

(b) The tokens or electronic cards may be purchased by means of an agreement under which the permit holder extends credit to the patron.

Sec. 11. Tokens or electronic cards may be used while present at the racetrack only for the purpose of making wagers on slot machines authorized under this article.

Sec. 12. A permit holder licensed to conduct gambling games under this article may not install more than one thousand (1,000) slot machines on the premises of the permit holder's racetrack.

Chapter 8. Taxation of Slot Machine Wagering

Sec. 1. (a) A state wagering tax is imposed on the adjusted gross receipts received from wagering on slot machines authorized under this article at the rate of thirty-two percent (32%).

(b) A permit holder shall remit the tax imposed by this section to the department before the close of the business day following the day the wagers are made.

(c) The department may require payment under this section to be made by electronic funds transfer, the department may allow the permit holder to file a monthly report to reconcile the amounts remitted to the department.

(d) The payment of the tax under this section must be on a form prescribed by the department.

Sec. 2. (a) The state racetrack gaming fund is established. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) The department shall deposit tax revenue collected under section 1 of this chapter in the state racetrack gaming fund.

(c) Money in the fund is appropriated for the purposes of this chapter.

Sec. 3. (a) This section applies to the first twenty-seven million two hundred five thousand two hundred eighty-four dollars ($27,205,284) deposited in the state racetrack gaming fund under section 2 of this chapter in a state fiscal year ending before July 1, 2007.

(b) Before the fifteenth day of each month, the treasurer of state shall distribute the tax revenue deposited in the state racetrack gaming fund in the preceding month to the Indiana horse racing commission to be distributed in amounts determined by the Indiana horse racing commission as follows:

(1) To one (1) or more breed development funds established by the Indiana horse racing commission under IC 4-31-11-10.

(2) To a racetrack that was approved by the Indiana horse racing commission under IC 4-31. The commission may make a grant under this clause only for purses, promotions, and routine operations of the racetrack. No grants shall be made for long term capital investment or construction, and no grants shall be made before the racetrack becomes operational and is offering a racing schedule.

Sec. 4. (a) This section applies to the tax revenue deposited in the state racetrack gaming fund that exceeds twenty-seven million two hundred five thousand two hundred eighty-four dollars ($27,205,284) in a state fiscal year ending before July 1, 2007.

(b) Before the fifteenth day of each month, the treasurer of state shall transfer the remaining tax revenue to the state general fund.

Sec. 5. (a) This section applies to a state fiscal year beginning
Sec. 6. (a) A local wagering tax is imposed on the adjusted gross receipts received from wagering on slot machines authorized under this article at the rate of eight percent (8%).

(b) The permit holder shall remit the tax imposed by this section to the department before the close of the business day following the day the wagers are made.

(c) The department may require payment under this section to be made by electronic funds transfer (as defined in IC 4-8.1-2-7(f)).

(d) If the department requires taxes to be remitted under this chapter through electronic funds transfer, the department may allow the permit holder to file a monthly report to reconcile the amounts remitted to the department.

(e) The department may allow taxes remitted under this section to be reported on the same form used for taxes paid under section 1 of this chapter.

Sec. 7. (a) The local racetrack gaming fund is established. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) The department shall deposit tax revenue collected under section 6 of this chapter in the local racetrack gaming fund.

(c) The treasurer of state shall establish a separate account within the fund for each county containing a racetrack. Each account consists of the local wagering taxes remitted by the county's racetrack under section 6 of this chapter and deposited into the fund under subsection (b).

(d) Money in the fund is appropriated for the purposes of this chapter.

Sec. 8. The treasurer of state shall distribute the taxes deposited in the local racetrack gaming fund as follows:

(1) The tax revenue remitted by a slot machine operation located at a racetrack that is located in a county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000) shall be distributed under section 9 of this chapter.

(2) The tax revenue remitted by a slot machine operation located at a racetrack that is located in a county having a population of more than forty-three thousand (43,000) but less than forty-five thousand (45,000) shall be distributed under section 10 of this chapter.

Sec. 9. In the case of a racetrack described in section 8(1) of this chapter, the first two hundred thousand dollars ($200,000) of tax revenue distributed under this section in the first calendar year that gambling games are conducted at the racetrack located in the county must be paid to the county treasurer for a one (1) time distribution to a shelter for victims of domestic violence located in the county. The first two hundred fifty thousand dollars ($250,000) of tax revenue distributed under this section in the second calendar year that gambling games are conducted at the racetrack located in the county must be paid to the county treasurer for a one (1) time distribution to a shelter for victims of domestic violence located in the county. The first two hundred fifty thousand dollars ($250,000) of tax revenue distributed under this section in the third calendar year that gambling games are conducted at the racetrack located in the county must be paid to the county treasurer for a one (1) time distribution to a shelter for victims of domestic violence located in the county. The remaining tax revenues distributed under this section each year shall be paid as follows:

(1) Thirty-two percent (32%) to the county's economic development council for distribution under section 11 of this chapter.

(2) Eighteen percent (18%) to a city having a population of more than fifty-nine thousand seven hundred (59,700) but less than sixty-five thousand (65,000).

(3) Twenty percent (20%) to the school corporations located in the county. The tax revenue distributed under this subdivision must be divided among the school corporations on a pro rata basis according to the ratio that the number of county resident students enrolled in each school corporation bears to the total number of county resident students enrolled in the school corporations located in the county.

(4) Fifteen percent (15%) to the incorporated cities and towns located in the county other than a city described in subdivision (2). The tax revenue distributed under this subdivision must be divided among the cities and towns on a pro rata basis according to the ratio that the population of each city or town bears to the total population of the county minus the population of a city described in subdivision (2).

(5) Fourteen and five-tenths percent (14.5%) to the capital projects fund of the county for distribution by the county legislative body.

(6) Five-tenths of one percent (0.5%) to the county fiscal body for distribution to mental health and addiction service providers located in the county.

Sec. 10. In the case of a racetrack that is described in section 8(2) of this chapter, the tax revenues remitted by the racetrack shall be paid as follows:

(1) Thirty-eight and five-tenths percent (38.5%) to the county.

(2) Thirty-eight and five-tenths percent (38.5%) to a city having a population of more than seventeen thousand nine hundred (17,900) but less than eighteen thousand one hundred (18,100).

(3) Twenty percent (20%) to the school corporations located in the county. The tax revenue distributed under this subdivision must be divided among the school corporations on a pro rata basis according to the ratio that the number of county resident students enrolled in each school corporation bears to the total number of county resident students enrolled in the school corporations located in the county.

(4) Five-tenths of one percent (0.5%) to the county fiscal body for distribution to mental health and addiction service providers located in the county.

(5) Two and five-tenths percent (2.5%) to a town having a population of more than one thousand (1,000) that is located in the county.

Sec. 11. (a) This section applies only to a county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000).

(b) The county economic development council is established to allocate the tax revenues received under section 9 of this chapter within the county. The first hundred thousand dollars ($500,000) of the taxes received each year must be allocated for operations, capital improvements, and other necessary expenditures of the certified technology center located in the largest city in the county. The council may allocate the remainder of the taxes received under section 9 of this chapter each year for the following purposes:

(1) Economic development projects within the county.

(2) Assisting the Madison County Community Health Center.

(3) Assisting nonprofit organizations located in the county.

If the council determines that the certified technology park located in the largest city in the county no longer needs the amount of money provided under this section, the council may reallocate the taxes for any purpose permitted by this section.

(c) The council consists of the following members:

(1) Two (2) elected officials, who must be members of different political parties, representing the county, appointed by the county executive.

(2) Two (2) elected officials, who must be members of different political parties, representing the largest city in the county, appointed by the mayor of the city.

(3) One (1) elected official from each city in the county other than the city described in subdivision (2), appointed by the mayor of the city.

(4) One (1) elected official from each town in the county, appointed by the legislative body of the town.

(5) The executive dean of Ivy Tech Community College-Anderson or the executive dean's designee.
Sec. 1. This chapter applies only to gambling games authorized under this article.

Sec. 2. A person who knowingly or intentionally aids, induces, or causes a person who is:
(1) less than twenty-one (21) years of age; and
(2) not an employee of a racetrack licensed to conduct gambling games under this article;
to enter or attempt to enter the racetrack's slot machine operation commits a Class A misdemeanor.

Sec. 3. A person who:
(1) is not an employee of a racetrack licensed to conduct gambling games under this article;
(2) is less than twenty-one (21) years of age; and
(3) knowingly or intentionally enters the racetrack's slot machine operation;
commits a Class A misdemeanor.

Sec. 4. A person who knowingly or intentionally:
(1) makes a false statement on an application submitted under this article;
(2) conducts a gambling game in a manner other than the manner required under this article; or
(3) wagers or accepts a wager at a location other than a racetrack's slot machine operation;
commits a Class A misdemeanor.

Sec. 5. A person who knowingly or intentionally does any of the following commits a Class D felony:
(1) Offers, promises, or gives anything of value or benefit:
(A) to a person who is connected with a permit holder, including an officer or an employee of a permit holder; and
(B) under an agreement to influence or with the intent to influence:
(i) the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a gambling game; or
(ii) an official action of a commission member.
(2) Solicits, accepts, or receives a promise of anything of value or benefit:
(A) while the person is connected with a permit holder, including an officer or an employee of a permit holder; and
(B) under an agreement to influence or with the intent to influence:
(i) the actions of the person to affect or attempt to affect the outcome of a gambling game; or
(ii) an official action of a commission member.
(3) Uses or possesses with the intent to use a device to assist in:
(A) projecting the outcome of the game;
(B) analyzing the probability of the occurrence of an event relating to the gambling game; or
(C) analyzing the strategy for playing or betting to be used in the game, except as permitted by the commission.
(4) Cheats at a gambling game.
(5) Manufactures, sells, or distributes any game or device that is intended to be used to violate this article.
(6) Alters or misrepresents the outcome of a gambling game on which wagers have been made after the outcome is made sure but before the outcome is revealed to the players.

Sec. 6. Aids a person in acquiring the knowledge described in subdivision (7) for the purpose of placing a bet contingent on the outcome of a gambling game.

Sec. 7. Places a bet on the outcome of a gambling game after acquiring knowledge that:
(A) is not available to all players; and
(B) concerns the outcome of the gambling game that is the subject of the bet.

Sec. 8. Aids a person in acquiring the knowledge described in subdivision (7) for the purpose of placing a bet contingent on the outcome of a gambling game.

Sec. 9. Claims, collects, takes, or attempts to claim, collect, or take money or anything of value in or from a gambling game:
(A) with the intent to defraud; or
(B) without having made a wager contingent on winning money paid to a political subdivision under this chapter:
(1) must be paid to the fiscal officer of the political subdivision and must be deposited in the political subdivision's general fund;
(2) may not be used to reduce the political subdivision's maximum levy under IC 6-3.5-7-13.1 but may be used at the discretion of the political subdivision to reduce the property tax levy of the political subdivision for a particular year;
(3) may be used for any purpose specified in this chapter or for any other legal or corporate purpose of the political subdivision, including the pledge of money to bonds, leases,
a gambling game.

(10) Claims, collects, or takes an amount of money or a thing of greater value than the amount won in a gambling game.

(11) Uses or possesses counterfeit tokens in or for use in a gambling game.

(12) Possesses a key or device designed for:
(A) opening, entering, or affecting the operation of a gambling game, drop box, or an electronic or a mechanical device connected with the gambling game; or
(B) removing coins, tokens, or other contents of a gambling game.

This subdivision does not apply to a permit holder or an employee of a permit holder acting in the course of the employee's employment.

(13) Possesses materials used to manufacture a slug or device intended to be used in a manner that violates this article.

Chapter 10. Employment

Sec. 1. (a) This section applies if a permit holder's employees are covered under the terms of a collective bargaining agreement that is in effect at the time a gambling license is issued authorizing a person to conduct gambling games under this article at the permit holder's racetrack.

(b) If a permit holder has nonsupervisory employees whose work is:

(1) directly related to:
(A) pari-mutuel terminal operations; or
(B) money room functions associated with pari-mutuel wagering on horse racing; and

(2) covered under the terms of a collective bargaining agreement;

the permit holder shall, subject to subsection (c), staff nonsupervisory positions directly related to the operation of gambling games under this article with employees whose work is covered under the terms of a collective bargaining agreement.

(c) The employees described in subsection (b) must be qualified to meet the licensing requirements of this article and any criteria required by the Indiana gaming commission in rules adopted under IC 4-22-2.

Sec. 2. The job classifications, job duties, wage rates, and benefits of nonsupervisory positions related to gambling games may be established by agreement of the parties to a collective bargaining agreement or, in the absence of an agreement, by the permit holder."

Page 17, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 32. IC 6-8.1-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13); the taxes imposed on slot machine wagering at racetracks (IC 4-35-8); the gross income tax (IC 6-2.1) (repealed); the utility receipts tax (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3.5); the supplemental net income tax (IC 6-3.8) (repealed); the county adjusted gross income tax (IC 6-3.5.1.1); the county option income tax (IC 6-3.5-6); the county economic development income tax (IC 6-3.5-7); the municipal option income tax (IC 6-3.5-8); the auto rental excise tax (IC 6-6.9); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6.1); the alternative fuel permit fee (IC 6-6.2.1); the special fuel tax (IC 6-6.2.5); the motor carrier fuel tax (IC 6-6.4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6.5); the commercial vehicle excise tax (IC 6-6.5.5); the hazardous waste disposal tax (IC 6-6.6.6); the cigarette tax (IC 6-7.1); the beer excise tax (IC 7.1-4.2); the liquor excise tax (IC 7.1-4.3); the wine excise tax (IC 7.1-4.4); the hard cider excise tax (IC 7.1-4.4.5); the malt excise tax (IC 7.1-4.5); the petroleum severance tax (IC 6-8.1.1); the various innkeeper's taxes (IC 6-9); the various county food and beverage taxes (IC 6-9.1); the county admissions tax (IC 6-9.13 and IC 6-9.28); the oil inspection fee (IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6.10); the penalties assessed for oversized vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23); the solid waste management fee (IC 13-20-22); and any other tax or fee that the department is required to collect or administer.

SECTION 33. IC 35-45-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. This chapter does not apply to the publication or broadcast of an advertisement, a list of prizes, or other information concerning:

(1) pari-mutuel wagering on horse races or a lottery authorized by the law of any state; or
(2) a game of chance operated in accordance with IC 4-32; or
(3) a gambling game operated in accordance with IC 4-35.

SECTION 34. IC 35-45-5-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. This chapter does not apply to a gambling game conducted as authorized by IC 4-35-5-4."

Page 17, between lines 40 and 41, begin a new paragraph and insert the following:

"SECTION 36. [EFFECTIVE JULY 1, 2005] (a) The definitions set forth in IC 4-35-2, as added by this act, apply throughout this SECTION.

(b) If the Indiana gaming commission determines that a permit holder has met the requirements of this act, the Indiana gaming commission shall adopt a resolution authorizing the permit holder to conduct gambling games under IC 4-35, as added by this act. The Indiana gaming commission may exercise any power necessary to implement this act under a resolution authorized under this SECTION.

(c) The Indiana gaming commission shall authorize a permit holder to conduct gambling games in a temporary facility upon the Indiana gaming commission's approval of the permit holder's plans for a permanent facility. Gambling games may be conducted in a temporary facility under this SECTION for not more than eighteen (18) months.

(d) This SECTION expires January 1, 2008."

Remember all SECTIONS consecutively.

(Reference is to HB 1522 as printed February 25, 2005.)

RESKE

Representative Whetstone rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into House Bill 1522 a bill pending before the House. The Speaker ruled the point was well taken and the motion was out of order.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Reske's amendment (1522–3) is a bill pending before this House under Rule 118.

PELATH

RESKE

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

The question was, Shall the ruling of the Chair be sustained? Roll Call 221: yeas 49, nays 48. The ruling of the Chair was sustained.

The Speaker Pro Tempore yielded the gavel to the Speaker.

HOUSE MOTION (Amendment 1522–2)

Mr. Speaker: I move that House Bill 1522 be amended to read as follows:

Delete the title and insert the following:

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

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

"SECTION 1. IC 4-31-2-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10.5. "Live racing day" means a day on which at least eight (8) live horse races are conducted.

SECTION 2. IC 4-31-2-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11.5. "Pari-mutuel pull tab"
has the meaning set forth in IC 4-35-2-5.

SECTION 3. IC 4-31-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A county fiscal body may adopt an ordinance permitting the filing of applications under IC 4-31-5 to conduct pari-mutuel wagering on horse races at racetracks in the county. However, before adopting the ordinance, the county fiscal body must:

(1) conduct a public hearing on the proposed ordinance; and
(2) publish notice of the public hearing in the manner prescribed by IC 5-3-1.

(b) The county fiscal body may:

(1) require in the ordinance adopted by the county fiscal body that before applications under IC 4-31-5 to conduct pari-mutuel wagering on horse races at racetracks in the county may be filed, the voters of the county must approve the conducting of horse racing meetings in the county under section 3 of this chapter; or
(2) amend an ordinance already adopted by the county fiscal body to require that before applications under IC 4-31-5 to conduct pari-mutuel wagering on horse races at racetracks in the county may be filed, the voters of the county must approve the conducting of horse racing meetings in the county under section 3 of this chapter.

An ordinance adopted under this section may not be amended to apply to a person who has already been issued a permit under IC 4-31-5 before amendment of the ordinance.

(c) An ordinance adopted under this section authorizing a person to conduct pari-mutuel wagering on horse races at racetracks in the county may not be adopted or amended in a manner that restricts a person's ability to sell pari-mutuel pull tabs under IC 4-35. An ordinance adopted by the county fiscal body permitting the sale of pari-mutuel pull tabs in the county is not a prerequisite for the lawful operation of pari-mutuel pull tabs under IC 4-35.

SECTION 4. IC 4-31-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The commission shall determine the dates and the number of racing days authorized under each recognized meeting permit. Except for racing at winterized tracks, a recognized meeting may not be conducted after February 28, 2005. In determining whether a proposed satellite facility should be approved, the commission shall consider the following:

(A) The purposes and provisions of this chapter.
(B) The public interest.
(C) The impact of the proposed satellite facility on live racing.
(D) The impact of the proposed satellite facility on pari-mutuel wagering.
(E) The potential for job creation.
(F) The quality of the physical facilities and the services to be provided at the proposed satellite facility.
(G) Any other factors that the commission considers important or relevant to its decision.

(3) The commission may not issue a license for a satellite facility to be located in a county unless IC 4-31-4 has been satisfied.

(c) After December 31, 2004, a permit holder may not submit an initial application for a license to operate an additional satellite facility under this chapter. After December 31, 2004, the commission may not issue an initial license for a new satellite facility. A satellite facility license issued before January 1, 2005, may be renewed annually subject to the requirements of this chapter.

SECTION 6. IC 4-31-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A person holding a permit to conduct a horse racing meeting or a license to operate a satellite facility may provide a place in the racing meeting grounds or enclosure or the satellite facility at which the person may conduct and supervise the pari-mutuel system of wagering by patrons of legal age on the horse races conducted or simulcast by the person.

(1) another place other than that provided and designated by the person; or
(2) another method or system of betting or wagering.

However, a permit holder licensed to sell pari-mutuel pull tabs under IC 4-35 may permit wagering on pari-mutuel pull tabs at a racetrack as permitted by IC 4-35.

(b) Except as provided in section 7 of this chapter and IC 4-31-5.5, the pari-mutuel system of wagering may not be conducted on any races except the races at the racetrack, grounds, or enclosure for which the person holds a permit.

SECTION 7. IC 4-31-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A person less than eighteen (18) years of age may not wager at a horse racing meeting.

(b) A person less than seventeen (17) eighteen (18) years of age may not enter the grandstand, clubhouse, or similar areas of a racetrack at which wagering is permitted unless accompanied by a person who is at least twenty-one (21) years of age.

(c) A person less than eighteen (18) years of age may not enter a satellite facility.

(d) A person less than twenty-one (21) years of age may not enter the part of a racetrack in which pari-mutuel pull tabs are sold under IC 4-35.
SECTION 8. IC 4-31-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. A person that holds a permit to conduct a horse racing meeting or a license to operate a satellite facility shall withhold:

(1) eighteen percent (18%) of the total of money wagered on each day at the racetrack or satellite facility (including money wagered on exotic wagering pools, but excluding money wagered on pari-mutuel pull tabs under IC 4-35); plus
(2) an additional three and one-half percent (3.5%) of the total of all money wagered on exotic wagering pools on each day at the racetrack or satellite facility.

SECTION 9. IC 4-32-15-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The commission to the sale of pari-mutuel pull tabs under IC 4-35.

"FOLLOW S [EFFECTIVE JULY 1, 2005]: Sec. 2. The commission holds a permit to conduct a horse racing meeting or a license to conduct a horse racing meeting or a license to hold a permit to conduct a horse racing meeting or a license to conduct a horse racing meeting (1) Adm inistering this article.
(2) Establishing the conditions under which riverboat gambling in Indiana may be conducted.
(3) Providing for the prevention of practices detrimental to the public interest and providing for the best interests of riverboat gambling.
(4) Establishing rules concerning inspection of riverboats and the review of the permits or licenses necessary to operate a riverboat.
(5) Imposing penalties for noncriminal violations of this article.
(6) Establishing the conditions under which pari-mutuel pull tabs may be sold under IC 4-35-2-5.

SECTION 12. IC 4-33-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The commission shall adopt rules under IC 4-22-2 for the following purposes:
(1) Administering this article.
(2) Establishing the conditions under which riverboat gambling in Indiana may be conducted.
(3) Providing for the prevention of practices detrimental to the public interest and providing for the best interests of riverboat gambling.
(4) Establishing rules concerning inspection of riverboats and the review of the permits or licenses necessary to operate a riverboat.
(5) Imposing penalties for noncriminal violations of this article.
(6) Establishing the conditions under which pari-mutuel pull tabs may be sold under IC 4-35-2-5.

SECTION 17. IC 4-33-12-6, AS AMENDED BY P.L.4-2005, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The department shall place in the state general fund the tax revenue collected under this chapter.
(b) Except as provided by subsections (c) and (d) and IC 6-3.1-20-7, the treasurer of state shall quarterly pay the following amounts:
(1) Except as provided in subsection (k), one dollar ($1) of the admissions tax collected by the licensed owner for each person embarking on a gambling excursion during the quarter or admitted to a riverboat that has implemented flexible scheduling under IC 4-33-6-21 during the quarter shall be paid to:
(A) the city in which the riverboat is docked, if the city:
(i) is located in a county having a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000); or
(ii) is contiguous to the Ohio River and is the largest city in the county; and
(B) the county in which the riverboat is docked, if the riverboat is not docked in a city described in clause (A).
(2) Except as provided in subsection (k), one dollar ($1) of the admissions tax collected by the licensed owner for each person:
(A) embarking on a gambling excursion during the quarter;
or
(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21; shall be paid to the county in which the riverboat is docked. In the case of a county described in subdivision (1)(B), this one dollar ($1) is in addition to the one dollar ($1) received under subdivision (1)(B).
(3) Except as provided in subsection (k), ten cents ($0.10) of the admissions tax collected by the licensed owner for each person:
(A) embarking on a gambling excursion during the quarter;
or
(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21; shall be paid to the county convention and visitors bureau or promotion fund for the county in which the riverboat is docked.
(4) Except as provided in subsection (k), fifteen cents ($0.15) of the admissions tax collected by the licensed owner for each person:
(A) embarking on a gambling excursion during the quarter;
or
(B) admitted to a riverboat during a quarter that has implemented flexible scheduling under IC 4-33-6-21; shall be paid to the state fair commission, for use in any activity that the commission is authorized to carry out under IC 15-1.5-3.
(5) Except as provided in subsection (k), ten cents ($0.10) of the admissions tax collected by the licensed owner for each person:
(A) embarking on a gambling excursion during the quarter;
or
(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21; shall be paid to the division of mental health and addiction. The division shall allocate at least twenty-five percent (25%) of the funds derived from the admissions tax to the prevention and treatment of compulsive gambling.
(6) Except as provided in subsections (k) and (l), sixty-five cents ($0.65) of the admissions tax collected by the licensed owner for each person embarking on a gambling excursion during the quarter or admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21 shall be paid to the Indiana horse racing commission to be distributed as follows, in amounts determined by the Indiana horse racing commission, for the promotion and operation of horse racing in Indiana:
(A) To one (1) or more breed development funds established by the Indiana horse racing commission under IC 4-31-11-10.
(B) To a racetrack that was approved by the Indiana horse racing commission under IC 4-31. The commission may make a grant under this clause only for purses, promotions, and routine operations of the racetrack. No grants shall be made for long term capital investment or construction, and no grants shall be made before the racetrack becomes operational and is offering a racing schedule.
(c) With respect to tax revenue collected from a riverboat located in a historic hotel district, the treasurer of state shall quarterly pay the following amounts:
(1) Twenty-five percent (25%) of the admissions tax collected during the quarter shall be paid to the county treasurer of the county in which the riverboat is docked. The county treasurer shall distribute the money received under this subdivision as follows:
(A) Twenty percent (20%) shall be quarterly distributed to the county treasurer of a county having a population of more than thirty-nine thousand six hundred (39,600) but less than forty thousand (40,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive.
(B) Twenty percent (20%) shall be quarterly distributed to the county treasurer of a county having a population of more than ten thousand seven hundred (10,700) but less than twelve thousand (12,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive.
(C) Sixty percent (60%) shall be retained by the county where the riverboat is docked for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body shall provide for
the distribution of part or all of the money received under this clause to the following under a formula established by the county fiscal body:

(i) A town having a population of more than two thousand two hundred (2,200) but less than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).
(ii) A town having a population of more than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).

(2) Sixteen percent (16%) of the admissions tax collected during the quarter shall be paid in equal amounts to each town that:
(A) is located in the county in which the riverboat docks; and
(B) contains a historic hotel.

The town council shall appropriate a part of the money received by the town under this subdivision to the budget of the town's tourism commission.

(3) Nine percent (9%) of the admissions tax collected during the quarter shall be paid to the historic hotel preservation commission established under IC 36-7-11.5.

(4) Twenty-five percent (25%) of the admissions tax collected during the quarter shall be paid to the West Baden Springs historic hotel preservation and maintenance fund established by IC 36-7-11.5-11(b).

(5) Twenty-five percent (25%) of the admissions tax collected during the quarter shall be paid to the Indiana economic development corporation to be used by the corporation for the implementation of a regional economic development strategy to assist the residents of the county in which the riverboat is located and residents of contiguous counties in improving their quality of life and to help promote successful and sustainable communities. The regional economic development strategy must include goals concerning the following issues:

(A) Job creation and retention.
(B) Infrastructure, including water, wastewater, and storm water infrastructure needs.
(C) Housing.
(D) Workforce training.
(E) Health care.
(F) Local planning.
(G) Land use.
(H) Assistance to regional economic development groups.
(I) Other regional development issues as determined by the Indiana economic development corporation.

(d) With respect to tax revenue collected from a riverboat that operates from a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), the treasurer of state shall quarterly pay the following amounts:

(1) Except as provided in subsection (k), one dollar ($1) of the admissions tax collected by the licensed owner for each person:
(A) embarking on a gambling excursion during the quarter; 
or
(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21; shall be paid to the county in which the riverboat is docked.
(2) Except as provided in subsection (k), one dollar ($1) of the admissions tax collected by the licensed owner for each person:
(A) embarking on a gambling excursion during the quarter; 
or
(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21; shall be paid to the county convention and visitors bureau or promotion fund for the county in which the riverboat is docked.
(4) Except as provided in subsection (k), one cent ($0.01) of the admissions tax collected by the licensed owner for each person:
(A) embarking on a gambling excursion during the quarter; 
or
(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21; shall be paid to the northwest Indiana law enforcement training center.

(5) Except as provided in subsection (k), fifteen cents ($0.15) of the admissions tax collected by the licensed owner for each person:
(A) embarking on a gambling excursion during the quarter; 
or
(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21; shall be paid to the state fair commission for use in any activity that the commission is authorized to carry out under IC 15-1.5-3.

(6) Except as provided in subsection (k), ten cents ($0.10) of the admissions tax collected by the licensed owner for each person:
(A) embarking on a gambling excursion during the quarter; 
or
(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21; shall be paid to the division of mental health and addiction. The division shall allocate at least twenty-five percent (25%) of the funds derived from the admissions tax to the prevention and treatment of compulsive gambling.

(7) Except as provided in subsections (k) and (l), sixty-five cents ($0.65) of the admissions tax collected by the licensed owner for each person embarking on a gambling excursion during the quarter or admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21 shall be paid to the Indiana horse racing commission to be distributed as follows, in amounts determined by the Indiana horse racing commission, for the promotion and operation of horse racing in Indiana:

(A) To one (1) or more breed development funds established by the Indiana horse racing commission under IC 4-31-11-10.
(B) To a racetrack that was approved by the Indiana horse racing commission under IC 4-31. The commission may make a grant under this clause only for purses, promotions, and routine operations of the racetrack. No grants shall be made for long term capital investment or construction, and no grants shall be made before the racetrack becomes operational and is offering a racing schedule.
(c) Money paid to a unit of local government under subsection (b)(1) through (b)(2), (c)(1) through (c)(2), or (d)(1) through (d)(2):
(1) must be paid to the fiscal officer of the unit and may be deposited in the unit's general fund or riverboat fund established under IC 36-1-8-9, or both;
(2) may not be used to reduce the unit's maximum levy under IC 6-1-1-18.5 but may be used at the discretion of the unit to reduce the property tax levy of the unit for a particular year;
(3) may be used for any legal or corporate purpose of the unit, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4; and
(4) is considered miscellaneous revenue.

(f) Money paid by the treasurer of state under subsection (b)(3) or (d)(3) shall be:

(1) deposited in:
(A) the county convention and visitor promotion fund; or
(B) the county's general fund if the county does not have a convention and visitor promotion fund; and
(2) used only for the tourism promotion, advertising, and economic development activities of the county and community.

(g) Money received by the division of mental health and addiction under subsections (b)(5) and (d)(6):
(1) is annually appropriated to the division of mental health and addiction;
(2) shall be distributed to the division of mental health and addiction at times during each state fiscal year determined by the budget agency; and
(3) shall be used by the division of mental health and addiction for programs and facilities for the prevention and treatment of addictions to drugs, alcohol, and compulsive gambling, including the creation and maintenance of a toll free telephone line to provide the public with information about these addictions. The division shall allocate at least twenty-five percent (25%) of the money received to the prevention and treatment of compulsive gambling.

(h) This subsection applies to the following:
(1) Each entity receiving money under subsection (b).
(2) Each entity receiving money under subsection (d)(1) through (d)(2).
(3) Each entity receiving money under subsection (d)(5) through (d)(7).

The treasurer of state shall determine the total amount of money paid by the treasurer of state to an entity subject to this subsection during the state fiscal year 2002. The amount determined under this subsection is the base year revenue for each entity subject to this subsection. The treasurer of state shall certify the base year revenue determined under this subsection to each entity subject to this subsection.

(i) This subsection applies to an entity receiving money under subsection (d)(3) or (d)(4). The treasurer of state shall determine the total amount of money paid by the treasurer of state to the entity described in subsection (d)(3) during state fiscal year 2002. The amount determined under this subsection multiplied by nine-tenths (0.9) is the base year revenue for the entity described in subsection (d)(3). The amount determined under this subsection multiplied by one-tenth (0.1) is the base year revenue for the entity described in subsection (d)(4). The treasurer of state shall certify the base year revenue determined under this subsection to each entity subject to this subsection.

(j) This subsection does not apply to an entity receiving money under subsection (c). For state fiscal years beginning after June 30, 2002, the total amount of money distributed to an entity under this section during a state fiscal year may not exceed the entity's base year revenue as determined under subsection (h) or (i). If the treasurer of state determines that the total amount of money distributed to an entity under this section during a state fiscal year is less than the entity's base year revenue, the treasurer of state shall make a supplemental distribution to the entity under IC 4-33-13-5(g).

(k) This subsection does not apply to an entity receiving money under subsection (c). For state fiscal years beginning after June 30, 2002, the treasurer of state shall pay that part of the riverboat admissions taxes that:

(1) exceed a particular entity's base year revenue; and
(2) would otherwise be due to the entity under this section; to the property tax replacement fund instead of to the entity.

(l) The maximum amount paid to the Indiana horse racing commission under this section in a state fiscal year ending before July 1, 2007, may not exceed the remainder of:

(1) the Indiana horse racing commission's base year revenue as determined under subsection (h); minus
(2) the amount of pari-mutuel pull tab wagering taxes, if any, paid to the Indiana horse racing commission under IC 4-35-8-3 in the state fiscal year.

For a state fiscal year ending before July 1, 2007, the treasurer of state shall pay the amount of the admissions taxes equal to the amount of pari-mutuel pull tab wagering taxes, if any, subtracted from the Indiana horse racing commission's base year revenue under this subsection to the property tax replacement fund instead of to the Indiana horse racing commission. For a state fiscal year beginning after June 30, 2007, the Indiana horse racing commission is not entitled to a distribution of admissions taxes collected under this chapter. After June 30, 2007, the treasurer of state shall pay the admissions taxes specified in subsections (b)(6) and (d)(7) to the property tax replacement fund instead of to the Indiana horse racing commission.

SECTION 18. IC 4-33-18-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Nothing in this chapter may be construed to limit the powers or responsibilities of:

(1) the Indiana state lottery commission under IC 4-30; (2) the Indiana horse racing commission under IC 4-31; (3) the department of state revenue under IC 4-32; or (4) the Indiana gaming commission under IC 4-33 or IC 4-35.

(b) The department may not exercise any administrative or regulatory powers with respect to:

(1) the Indiana lottery under IC 4-30; (2) pari-mutuel horse racing under IC 4-31; (3) charity gaming under IC 4-32; or (4) riverboat casino gambling under IC 4-33; or (5) the sale of pari-mutuel pull tabs at a racetrack (as defined by IC 4-35-2-7) under IC 4-35.

SECTION 19. IC 4-35 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

ARTICLE 35. PARI-MUTUEL PULL TABS

Chapter 1. Application
Sec. 1. This article applies only to the sale of pari-mutuel pull tabs by a permit holder licensed under IC 4-35-5.

Sec. 2. This article does not apply to the sale of pull tabs by:

(1) the state lottery commission under IC 4-30; or (2) a qualified organization (as defined in IC 4-32-6-20) under IC 4-32.

Chapter 2. Definitions
Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Adjusted gross receipts" means:

(1) the total of all cash and property (including checks received by a permit holder, whether collected or not) received by a permit holder from pari-mutuel pull tab sales; minus

(2) the total of:
(A) all cash paid out to patrons as winnings for pari-mutuel pull tabs; and
(B) uncollectible pari-mutuel pull tab receivables, not to exceed the lesser of:
(i) a reasonable provision for uncollectible patron checks received from pari-mutuel pull tab sales; or (ii) two percent (2%) of the total of all sums, including checks, whether collected or not, less the amount paid out to patrons as winnings for pari-mutuel pull tabs.

For purposes of this section, a counter or personal check that is invalid or unenforceable under this article is considered cash received by the permit holder from pari-mutuel pull tab sales.

Sec. 3. "Commission" refers to the Indiana gaming commission established by IC 4-33-3-1.

Sec. 4. "Department" refers to the department of state revenue.

Sec. 5. "Pari-mutuel pull tab" means a game offered to the public in which a person who purchases a ticket or simulated ticket has the opportunity to share in a prize pool, multiple prize pools, or a shared prize pool consisting of the total amount wagered in the game minus deductions by the permit holder selling the pari-mutuel pull tab and other deductions either permitted or required by law.

Sec. 6. "Permit holder" means a person holding a permit issued under IC 4-31-5 to conduct a pari-mutuel horse racing meeting.

Sec. 7. "Racetrack" means the racetrack specified in a permit holder's permit to conduct a pari-mutuel horse racing meeting.

Sec. 8. "Supplier's license" means a license issued under IC 4-35-6.

Sec. 1. All shipments of gambling devices, including pari-mutuel pull tab machines, to permit holders in Indiana, the registering, recording, and labeling of which have been completed by the manufacturer or dealer in accordance with 15 U.S.C. 1171 through 15 U.S.C. 1178, are legal shipments of gambling devices into Indiana.

Sec. 2. Under 15 U.S.C. 1172, approved January 2, 1951, the state of Indiana, acting by and through elected and qualified members of the general assembly, declares that the state is exempt from 15 U.S.C. 1172.
Chapter 4. Powers and Duties of the Indiana Gaming Commission

Sec. 1. The commission shall regulate and administer the sale, purchase, and redemption of pari-mutuel pull tab games under this article.

Sec. 2. (a) The commission shall adopt rules under IC 4-22-2, including emergency rules adopted under a procedure identical to the procedure set forth in IC 4-22-2-37.1, to implement this article, including rules that prescribe:

(1) an approval process for pari-mutuel pull tab games that requires periodic testing of the games and equipment by an independent entity under the oversight of the commission to ensure the integrity of the games to the public;
(2) a system of internal audit controls;
(3) a method of payment for pari-mutuel pull tab prizes that allows a player to transfer credits from one (1) terminal or device to another;
(4) a method of payment for pari-mutuel pull tab prizes that allows a player to redeem a winning ticket for additional play tickets or credit to permit purchase of additional play tickets;
(5) requirements for a license to sell pari-mutuel pull tabs that a permit holder must obtain from the commission before selling pari-mutuel pull tabs; and
(6) any other procedure or requirement necessary for the efficient and economical operation of the pari-mutuel pull tab games and the convenience of the public.

(b) The commission may enter into a contract with the Indiana horse racing commission for the provision of services necessary to administer pari-mutuel pull tab games.

Chapter 5. Pari-Mutuel Pull Tab License

Sec. 1. The commission may issue a license to a permit holder to sell pari-mutuel pull tabs under this article at the permit holder's racetrack.

Sec. 2. Before issuing a license to a permit holder under this chapter, the commission shall subject the permit holder to a background investigation similar to a background investigation required for an applicant for a riverboat owner's license under IC 4-33-6.

Sec. 3. An initial pari-mutuel pull tab license expires five (5) years after the effective date of the license. Unless the pari-mutuel pull tab license is terminated or revoked, the pari-mutuel pull tab license may be renewed annually thereafter upon:

(1) the payment of an annual renewal fee determined by the commission; and
(2) a determination by the commission that the permit holder satisfies the conditions of this chapter.

Sec. 4. (a) A permit holder holding a pari-mutuel pull tab license shall undergo a complete investigation every three (3) years to determine whether the permit holder remains in compliance with this article.

(b) Notwithstanding subsection (a), the commission may investigate a permit holder at any time the commission determines it is necessary to ensure that the permit holder remains in compliance with this article.

Sec. 5. A permit holder shall bear the cost of an investigation or a reinvestigation of the permit holder and any investigation resulting from a potential transfer of ownership.

Sec. 6. The commission may assess an administrative fee to a permit holder offering pari-mutuel pull tab games in an amount that allows the commission to recover all the commission's costs of administering this article.

Chapter 6. Pari-Mutuel Pull Tab Suppliers

Sec. 1. The commission may issue a supplier's license under this chapter to a person if:

(1) the person has:
   (A) applied for the supplier's license;
   (B) paid a nonrefundable application fee set by the commission;
   (C) paid a five thousand dollar ($5,000) annual supplier's license fee; and
   (D) submitted, on forms provided by the commission, two (2) sets of:
      (i) the individual's fingerprints, if the applicant is an individual; or
      (ii) fingerprints for each officer and director of the applicant, if the applicant is not an individual; and
(2) the commission has determined that the applicant is eligible for a supplier's license.

Sec. 2. (a) A holder of a supplier's license issued under this chapter may sell, lease, and contract to sell or lease pari-mutuel pull tab terminals and devices to a permit holder authorized to sell and redeem pari-mutuel pull tabs under IC 4-35-5.

(b) Pari-mutuel pull tab terminals and devices may not be distributed unless the terminals and devices conform to standards adopted by the commission.

Sec. 3. A person may not receive a supplier's license under this chapter if:

(1) the person has been convicted of a felony under Indiana law, the laws of any other state, or the laws of the United States;
(2) the person has knowingly or intentionally submitted an application for a supplier's license under this chapter that contains false information;
(3) the person is a member of the commission;
(4) the person is an officer, director, or a managerial employee of a person described in subdivision (1) or (2);
(5) the person employs an individual who:
   (A) is described in subdivision (1), (2), or (3); and
   (B) participates in the management or operation of gambling operations authorized under this article;
(6) the person owns more than a ten percent (10%) ownership interest in any other person holding a permit issued under IC 4-31; or
(7) a license issued to the person:
   (A) under this article; or
   (B) to supply gaming supplies in another jurisdiction; has been revoked.

Sec. 4. A person may not furnish pari-mutuel pull tab terminals or devices to a permit holder unless the person possesses a supplier's license.

Sec. 5. (a) A supplier shall furnish to the commission a list of all pari-mutuel pull tab terminals and devices offered for sale or lease in connection with the sale of pari-mutuel pull tabs authorized under this article.

(b) A supplier shall keep books and records for the furnishing of pari-mutuel pull tab terminals and devices to permit holders. The books and records must be separate from books and records of any other business operated by the supplier.

(c) A supplier shall file a quarterly return with the commission listing all sales and leases.

(d) A supplier shall permanently affix the supplier's name to all pari-mutuel pull tab terminals or devices that the supplier provides to permit holders under this chapter.

Sec. 6. A supplier's pari-mutuel pull tab terminals or devices that are used by a person in an unauthorized gambling operation shall be forfeited to the state.

Sec. 7. Pari-mutuel pull tab terminals and devices that are provided by a supplier may:

(1) repaired on the premises of a racetrack; or
(2) removed for repair from the racetrack to a facility owned by the permit holder.

Sec. 8. (a) Unless a supplier's license is suspended, expires, or is revoked, the supplier's license may be renewed annually upon:

(1) the payment of a five thousand dollar ($5,000) annual renewal fee; and
(2) a determination by the commission that the holder of the supplier's license is in compliance with this article.

(b) The holder of a supplier's license shall undergo a complete investigation every three (3) years to determine whether the holder of the supplier's license is in compliance with this article.

(c) Notwithstanding subsection (b), the commission may investigate the holder of a supplier's license at any time the commission determines it is necessary to ensure that the holder of the supplier's license is in compliance with this article.

(d) The holder of a supplier's license shall bear the cost of an investigation or reinvestigation of the licensee and any investigation resulting from a potential transfer of ownership.
Chapter 7. Conduct of Pari-Mutuel Pull Tab Games
Sec. 1. A pari-mutuel pull tab game must be conducted in the following manner:
   (1) Each set of pari-mutuel pull tabs must have a predetermined:
       (A) total purchase price; and
       (B) amount of prizes.
   (2) Randomly ordered pari-mutuel pull tabs may be distributed from an approved location or from a distribution device to:
       (A) the permit holder at the permit holder's racetrack; or
       (B) a terminal or device of the permit holder at the permit holder's racetrack.
   (3) A pari-mutuel pull tab must be presented to a player in the form of a paper ticket or display on a terminal or device.
   (4) Game results must be initially covered or otherwise concealed from view on the pari-mutuel pull tab ticket, terminal, or device so that the number, letter, symbol, or set of numbers, letters, or symbols cannot be seen until the concealing medium is removed.
   (5) A winner is identified after the display of the game results when a player removes the concealing medium of the pari-mutuel pull tab ticket or display on a terminal or device.
   (6) A winner shall receive the prize or prizes posted or displayed for the game from the permit holder.
Sec. 2. A person less than twenty-one (21) years of age may not purchase a pari-mutuel pull tab.
Sec. 3. The sale price of a pari-mutuel pull tab may not exceed ten dollars ($10).
Sec. 4. The sale, purchase, and redemption of pari-mutuel pull tabs are limited to a racetrack operated by a permit holder licensed to sell pari-mutuel pull tab tickets under IC 4-35-5.
Sec. 5. A permit holder may not install more than one thousand (1,000) pari-mutuel pull tab terminals or devices on the premises of the permit holder's racetrack.
Sec. 6. The number and amount of the prizes in a pari-mutuel pull tab game must be finite. However, the commission may not limit the number or amount of prizes in a pari-mutuel pull tab game.
Sec. 7. A list of prizes for winning pari-mutuel pull tabs must be posted or displayed at a location where the pari-mutuel pull tabs are sold.
Sec. 8. A permit holder may close a pari-mutuel pull tab game at any time.
Sec. 9. A pari-mutuel pull tab terminal or device may be operated by a player without the assistance of the permit holder for the sale and redemption of pari-mutuel pull tabs.
Sec. 10. A pari-mutuel pull tab terminal or device may not dispense coins or currency as prizes for winning pari-mutuel pull tabs. Prizes awarded by a terminal or device must be in the form of credits for additional play or certificates redeemable for cash or prizes.
Chapter 8. Taxation of Pari-Mutuel Pull Tab Wagering
Sec. 1. (a) A state wagering tax is imposed on the adjusted gross receipts received from pari-mutuel pull tab wagering authorized under this article at the rate of thirty-two percent (32%).
   (b) A permit holder shall remit the tax imposed by this section to the department before the close of the business day following the day the wagers are made.
   (c) The department may require payment under this section to be made by electronic funds transfer (as defined in IC 4-8.1-2-7(f)).
   (d) If the department requires taxes to be remitted under this chapter through electronic funds transfer, the department may allow the permit holder to file a monthly report to reconcile the amounts remitted to the department.
   (e) The department may allow taxes remitted under this section to be reported on the same form used for taxes paid under section 1 of this chapter.
Sec. 2. (a) The state racetrack gaming fund is established.
   (b) The department shall deposit tax revenue collected under section 1 of this chapter in the state racetrack gaming fund.
   (c) Money in the fund is appropriated for the purposes of this chapter.
Sec. 3. (a) This section applies to the first twenty-seven million two hundred five thousand two hundred eighty-four dollars ($27,205,284) deposited in the state racetrack gaming fund under section 2 of this chapter in a state fiscal year ending before July 1, 2007.
   (b) Before the fifteenth day of each month, the treasurer of state shall distribute the tax revenue deposited in the state racetrack gaming fund in the preceding month to the Indiana horse racing commission to be distributed in amounts determined by the Indiana horse racing commission as follows:
      (1) To one (1) or more breed development funds established by the Indiana horse racing commission under IC 4-31-11-10.
      (2) To a racetrack that was approved by the Indiana horse racing commission under IC 4-31. The commission may make a grant under this clause only for purses, promotions, and routine operations of the racetrack. No grants shall be made for long term capital investment or construction, and no grants shall be made before the racetrack becomes operational and is offering a racing schedule.
Sec. 4. (a) This section applies to the tax revenue deposited in the state racetrack gaming fund that exceeds twenty-seven million two hundred five thousand two hundred eighty-four dollars ($27,205,284) in a state fiscal year ending before July 1, 2007.
   (b) Before the fifteenth day of each month, the treasurer of state shall transfer the remaining tax revenue to the state general fund.
Sec. 5. (a) This section applies to a state fiscal year beginning after June 30, 2007.
   (b) Before the fifteenth day of each month, the treasurer of state shall transfer the tax revenue deposited in the state racetrack gaming fund under section 2 of this chapter in the preceding month to the state general fund.
Sec. 6. (a) A local wagering tax is imposed on the adjusted gross receipts received from pari-mutuel pull tab wagering authorized under this article at the rate of eight percent (8%).
   (b) A permit holder shall remit the tax imposed by this section to the department before the close of the business day following the day the wagers are made.
   (c) The department may require payment under this section to be made by electronic funds transfer (as defined in IC 4-8.1-2-7(f)).
   (d) If the department requires taxes to be remitted under this chapter through electronic funds transfer, the department may allow the permit holder to file a monthly report to reconcile the amounts remitted to the department.
   (e) The department may allow taxes remitted under this section to be reported on the same form used for taxes paid under section 1 of this chapter.
Sec. 7. (a) The local racetrack gaming fund is established.
   (b) The department shall deposit tax revenue collected under section 6 of this chapter in the local racetrack gaming fund.
   (c) The treasurer of state shall establish a separate account within the fund for each county containing a racetrack. Each account consists of the local wagering taxes remitted by the county's racetrack under section 6 of this chapter and deposited into the fund under subsection (b).
   (d) Money in the fund is appropriated for the purposes of this chapter.
Sec. 8. The treasurer of state shall distribute the taxes deposited in the local racetrack gaming fund as follows:
   (1) The tax revenue remitted by a permit holder offering pari-mutuel pull tabs at a racetrack that is located in a county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000) shall be distributed under section 9 of this chapter.
(2) The tax revenue remitted by a permit holder offering pari-mutuel pull tab operations at a racetrack that is located in a county having a population of more than forty-three thousand (43,000) but less than forty-five thousand (45,000) shall be distributed under section 10 of this chapter.

Sec. 9. In the case of a racetrack described in section 8(1) of this chapter, the first two hundred thousand dollars ($200,000) of tax revenue distributed under this section in the first calendar year that pari-mutuel pull tab wagering is conducted at the racetrack located in the county must be paid to the county treasurer for a one (1) time distribution to a shelter for victims of domestic violence located in the county. The first two hundred fifty thousand dollars ($250,000) of tax revenue distributed under this section in the second calendar year that pari-mutuel pull tab wagering is conducted at the racetrack located in the county must be paid to a postsecondary educational institution located in the county to support the institution's electrical engineering programs. The first two hundred thousand dollars ($200,000) of tax revenue distributed in the third calendar year that pari-mutuel pull tab wagering is conducted at the racetrack located in the county must be paid to the Madison County Community Health Center. The remainder of the tax revenues distributed under this section each year shall be paid as follows:

(1) Thirty-two percent (32%) to the county’s economic development council for distribution under section 11 of this chapter.

(2) Eighteen percent (18%) to a city having a population of more than fifty-nine thousand seven hundred (59,700) but less than sixty-five thousand (65,000).

(3) Twenty percent (20%) to the school corporations located in the county. The tax revenue distributed under this subdivision must be divided among the school corporations on a pro rata basis according to the ratio of the number of county resident students enrolled in each school corporation to the total number of county resident students enrolled in the school corporations located in the county.

(4) Fifteen percent (15%) to the incorporated cities and towns located in the county other than a city described in subdivision (2). The tax revenue distributed under this subdivision must be divided among the cities and towns on a pro rata basis according to the ratio that the population of each city or town bears to the total population of the county minus the population of a city described in subdivision (2).

(5) Fourteen and five-tenths percent (14.5%) to the capital projects fund of the county for distribution by the county legislative body.

(6) Five-tenths of one percent (0.5%) to the county fiscal body for distribution to mental health and addiction service providers located in the county.

Sec. 10. In the case of a racetrack that is described in section 8(2) of this chapter, the tax revenues remitted by the racetrack shall be paid as follows:

(1) Thirty-eight and five-tenths percent (38.5%) to the county.

(2) Thirty-eight and five-tenths percent (38.5%) to a city having a population of more than seventeen thousand nine hundred and forty (17,940) but less than eighteen thousand one hundred (18,100).

(3) Twenty percent (20%) to the school corporations located in the county. The tax revenue distributed under this subdivision must be divided among the school corporations on a pro rata basis according to the ratio that the number of county resident students enrolled in each school corporation bears to the total number of county resident students enrolled in the school corporations located in the county.

(4) Five-tenths of one percent (0.5%) to the county fiscal body for distribution to mental health and addiction service providers located in the county.

(5) Two and five-tenths percent (2.5%) to a town having a population of more than one thousand (1,000) that is located in the county.

Sec. 11. (a) This section applies only to a county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000).

(b) The county economic development council is established to allocate pari-mutuel pull tab wagering taxes received under section 9 of this chapter within the county. Five hundred thousand dollars ($500,000) of the taxes received each year must be allocated for operations, capital improvements, and other necessary expenditures of the certified technology park located in the largest city in the county. The council may allocate the remainder of the taxes received under section 9 of this chapter each year for the following purposes:

(1) Economic development projects within the county.

(2) Assisting the Madison County Community Health Center.

(3) Assisting nonprofit organizations located in the county.

If the council determines that the certified technology park located in the largest city in the county no longer needs the amount of money provided under this section, the council may reallocate the taxes for any purpose permitted by this section.

(c) The council consists of the following members:

(1) Two (2) elected officials, who must be members of different political parties, representing the county appointed by the county executive.

(2) Two (2) elected officials, who must be members of different political parties, representing the largest city in the county appointed by the mayor of the city.

(3) One (1) elected official from each city in the county other than the city described in subdivision (2) appointed by the mayor of the city.

(4) One (1) elected official from each town in the county appointed by the legislative body of the town.

(5) The executive dean of Ivy Tech Community College-Anderson or the executive dean’s designee.

(6) The president of Anderson University or the president’s designee.

(d) For purposes of this section, "economic development project" means any project that would be considered an economic development project under IC 6-3.5-7-13.1.

Sec. 12. (a) Before the fifteenth day of each month, a permit holder shall pay to the Indiana horse racing commission for the promotion of horse racing a fee of thirteen percent (13%) of the permit holder’s adjusted gross receipts received from pari-mutuel pull tab wagering authorized by this article for the previous month.

(b) Subject to subdivision (1)(C), the Indiana horse racing commission shall distribute the money that is paid under subsection (a) as follows:

(1) Eighty-one percent (81%) for the following purposes:

(A) Forty-six percent (46%) for thoroughbred purposes as follows:

(i) Ninety-eight and five-tenths percent (98.5%) for thoroughbred purses.

(ii) One and two-tenths percent (1.2%) to the horsemen’s association representing thoroughbred owners and trainers.

(iii) Three-tenths of one percent (0.3%) to the horsemen’s association representing thoroughbred owners and breeders.

(B) Forty-six percent (46%) for standardbred purposes as follows:

(i) Ninety-eight and five-tenths percent (98.5%) for standardbred purses.

(ii) One and five-tenths percent (1.5%) to the horsemen’s association representing standardbred owners and trainers.

(C) Eight percent (8%) for quarterhorse purposes as follows:

(i) Ninety-five percent (95%) for quarterhorse purses.

(ii) Five percent (5%) to the horsemen’s association representing quarterhorse owners and trainers.

However, in the first year after the commencement of pari-mutuel pull tab operations, the money distributed under this clause may not exceed the lesser of two million
seven hundred thousand dollars ($2,700,000) or eight percent (8%) of the money paid under this subdivision. If quarterhorse races average at least seven and five-tenths (7.5) horses per gate in the first year after the commencement of pari-mutuel pull tab operations or in a subsequent year, the money distributed under this clause for quarterhorse purposes shall be increased by ten percent (10%) in the following year. However, the money distributed under this clause may not exceed eight percent (8%) of the total amount of money distributed under this subdivision. If the amount of money distributed under this clause is less than eight percent (8%) of the total amount of money distributed under this subdivision in a particular year, the amounts distributed under clauses (A) and (B) for that year shall be increased equally in proportional amounts.

(2) Nineteen percent (19%) to the breed development funds established under IC 4-31-11-10 in the same proportion that money is distributed for the purposes of each breed under subdivision (1).

Sec. 13. (a) As used in this section, "political subdivision" means a county, township, city, town, separate municipal corporation, special taxing district, or school corporation. (b) Money paid to a political subdivision under this chapter:

(1) must be paid to the fiscal officer of the political subdivision and must be deposited in the political subdivision's general fund;

(2) may not be used to reduce the political subdivision's maximum levy under IC 6-1.1 but may be used at the discretion of the political subdivision to reduce the property tax levy of the political subdivision for a particular year;

(3) may be used for any purpose specified in this chapter or for any other legal or corporate purpose of the political subdivision, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4; and

(4) is considered miscellaneous revenue.

Chapter 9. Penalties

Sec. 1. A person who knowingly or intentionally aids, induces, or causes a person who is:

(1) less than twenty-one (21) years of age; and

(2) not an employee of a pari-mutuel pull tab operation licensed under this article;

to enter or attempt to enter the pari-mutuel pull tab operation commits a Class A misdemeanor.

Sec. 2. A person who:

(1) is not an employee of a pari-mutuel pull tab operation licensed under this article;

(2) is less than twenty-one (21) years of age; and

(3) knowingly or intentionally enters the pari-mutuel pull tab operation;

commits a Class A misdemeanor.

Chapter 10. Employment

Sec. 1. (a) This section applies if a permit holder's employees are covered under the terms of a collective bargaining agreement that is in effect at the time a pari-mutuel pull tab license is issued authorizing a person to offer pari-mutuel pull tabs under this article at the permit holder's racetrack. (b) If a permit holder has nonsupervisory employees whose work is:

(1) directly related to:

(A) pari-mutuel terminal operations; or

(B) money room functions associated with pari-mutuel wagering on horse racing; and

(2) covered under the terms of a collective bargaining agreement;

the permit holder shall, subject to subsection (c), staff nonsupervisory positions directly related to the operation of pari-mutuel pull tabs under this article with employees whose work is covered under the terms of a collective bargaining agreement.

(c) The employees described in subsection (b) must be qualified to meet the licensing requirements of this article and any criteria required by the Indiana gaming commission in rules adopted under IC 4-22-2.

Sec. 2. The job classifications, job duties, wage rates, and benefits of nonsupervisory positions related to pari-mutuel pull tabs may be established by agreement of the parties to a collective bargaining agreement or, in the absence of an agreement, by the permit holder."

Page 17, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 17. IC 6-8.1-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13); the taxes imposed on pari-mutuel pull tab wagering (IC 4-35-8); the gross income tax (IC 6-2-1) (repealed); the utility receipts tax (IC 6-2-3); the state gross retail and use taxes (IC 6-2-5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the county adjusted gross income tax (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county economic development income tax (IC 6-3.5-7); the municipal option income tax (IC 6-3.5-8); the auto rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-3-8.3; the motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-5); the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various county food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee (IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6-10); the penalties assessed for oversized vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23); the solid waste management fee (IC 13-20-22); and any other tax or fee that the department is required to collect or administer.

SECTION 18. IC 35-45-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. This chapter does not apply to the publication or broadcast of an advertisement, a list of prizes, or other information concerning:

(1) pari-mutuel wagering on horse races or a lottery authorized by the law of any state; or

(2) a game of chance operated in accordance with IC 4-32; or

(3) a pari-mutuel pull tab game operated in accordance with IC 4-35.

SECTION 19. IC 35-45-5-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. This chapter does not apply to the sale of pari-mutuel pull tabs authorized by IC 4-35."

Page 17, between lines 40 and 41, begin a new paragraph and insert the following:

"SECTION 20. [EFFECTIVE JULY 1, 2005] (a) The Indiana gaming commission shall adopt the emergency rules required under IC 4-35-4-2, as added by this act, before January 1, 2006. (b) This SECTION expires January 31, 2006.

SECTION 21. [EFFECTIVE JULY 1, 2005] (a) If the Indiana gaming commission determines that a permit holder has met the requirements of this act, the Indiana gaming commission shall adopt a resolution authorizing a permit holder to sell pari-mutuel pull tabs under IC 4-35, as added by this act. The Indiana gaming commission may exercise any power necessary to implement this act under a resolution authorized under this SECTION. (b) This SECTION expires December 31, 2006."

Resubmit all SECTIONS consecutively.

(Reference is to HB 1522 as printed February 25, 2005.)

RESKE

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.
APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Reske’s amendment (1522–2) is not germane to House Bill 1522.

Rule 80 provides a member the right to amend a bill on subjects germane to the subject of the bill under consideration. Amendment 2 is germane to House Bill 1522 because both measures concern gaming.

PELATH
RESKE

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

The question was, Shall the ruling of the Chair be sustained? Roll Call 222: yeas 50, nays 46. The ruling of the Chair was sustained.

The Speaker Pro Tempore yielded the gavel to the Speaker.

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

House Bill 1381

Representative Wolkins called down House Bill 1381 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1381–1)

Mr. Speaker: I move that House Bill 1381 be amended to read as follows:

Page 3, between lines 5 and 6, begin a new paragraph and insert: “SECTION 3. IC 13-11-2-245 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 245. (a) "Vehicle", for purposes of IC 13-17-5, refers to a vehicle required to be registered with the bureau of motor vehicles and required to have brakes. The term does not include the following:

(1) Farm tractors.
(2) Implements of husbandry.
(3) Farm tractors used in transportation.
(4) Mobile homes (house trailers).
(5) Trailers weighing not more than three thousand (3,000) pounds.
(6) Antique motor vehicles.

(b) "Vehicle", for purposes of IC 13-18-12, means a device used to transport a tank.
(c) "Vehicle", for purposes of IC 13-20-4, refers to a municipal waste collection and transportation vehicle.
(d) "Vehicle", for purposes of IC 13-20-13-7, means a motor vehicle, farm tractor (as defined in IC 9-13-2-56(a) or IC 9-13-2-56(b)), implement of husbandry (as defined in IC 9-13-2-77), semitrailer (as defined in IC 9-13-2-164(a) or IC 9-13-2-164(b)), and types of equipment, machinery, implements, or other devices used in transportation, manufacturing, agriculture, construction, or mining. The term does not include the following:

† A lawn and garden tractor that is propelled by a motor of not more than twenty (20) horsepower.
‡ A semitrailer.

(e) "Vehicle", for purposes of IC 13-20-14, has the meaning set forth in IC 9-13-2-196."

Page 3, line 8, strike "twenty-five cents ($0.25)" and insert "one dollar ($1)".

Page 3, line 8, after "on" strike "the" and insert "a".

Page 3, line 8, delete ":" and insert "that occurs before July 1, 2010:".

Renumber all SECTIONS consecutively.

(Reference is to HB 1381 as printed February 25, 2005.)

WOLKINS

Motion prevailed.

HOUSE MOTION
(Amendment 1381–2)

Mr. Speaker: I move that House Bill 1381 be amended to read as follows:

Page 2, line 25, after "IC 13-21-3-1" insert "or municipal corporations".

Page 2, line 27, after "districts" insert "or municipal corporations".

PIERCE

Motion prevailed. The bill was ordered engrossed.

House Bill 1299

Representative Whetstone called down House Bill 1299 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1299–2)

Mr. Speaker: I move that House Bill 1299 be amended to read as follows:

Page 6, line 41, delete "Wayne County Food and Beverage Tax" and insert "Food and Beverage Taxes in Wayne County".

Page 7, between lines 22 and 23, begin a new paragraph and insert: "Sec. 12. As used in this chapter, "unit" means:

(1) a county described in section 1 of this chapter; or
(2) a city or town located in the county described in section 1 of this chapter."

Page 7, line 23, delete "12." and insert "13."

Page 7, line 24, delete "county" and insert "unit".

Page 7, line 25, delete "county's" and insert "unit's".

Page 7, line 26, delete "13." and insert "14."

Page 7, line 26, after "," insert "The fiscal body of a unit other than a county may not adopt an ordinance under this chapter until after July 31, 2006, unless the fiscal body of the county adopts a resolution to relinquish its exclusive authority to adopt an ordinance under this chapter before August 1, 2006. If a county fiscal body adopts a resolution under this subsection, the county fiscal body shall send a certified copy of the resolution to the executive of each city and town located in the county.".

Page 7, line 31, delete "This subsection does not apply to a county governed under".

Page 7, line 32, delete "IC 36-2-3.5.".

Page 7, line 32, after "body" insert "of a county".

Page 7, delete lines 35 through 39.

Page 7, line 40, delete "(e)" and insert "(d)".

Page 7, line 40, delete "(c)" and insert "(e)".

Page 7, line 41, delete "under subsection (d),".

Page 7, after line 42, begin a new paragraph and insert: "(c) If a unit other than a county adopts an ordinance under this section, the unit's executive shall immediately send a certified copy of the ordinance to the department.".

Page 8, line 1, delete "13." and insert "14."

Page 8, line 2, delete "12." and insert "13."

Page 8, line 7, delete "county" and insert "unit".

Page 8, between lines 8 and 9, begin a new line blocked left and insert: "If both a county and another unit located in the county impose a tax under this chapter, the tax imposed by the county does not apply within the territory of the other unit imposing the tax.".

Page 8, line 22, delete "14." and insert "15."

Page 8, line 23, delete "13." and insert "14."

Page 8, line 29, delete "15." and insert "16."

Page 8, line 29, delete "county" and insert "unit".

Page 8, line 30, delete "14." and insert "15."

Page 8, line 31, delete "county" and insert "unit".

Page 8, line 32, delete "county's" and insert "unit's".

Page 8, line 36, delete "16." and insert "17."

Page 8, line 37, delete "county" and insert "unit".

Page 8, line 39, delete "county" and insert "unit".

Page 8, line 40, delete "county's" and insert "unit's".

Page 8, line 41, delete "county's" and insert "unit's".

Page 9, line 4, delete "17." and insert "18."

Page 9, line 4, delete "county".

Page 9, line 7, delete "18." and insert "19."

Page 9, line 14, delete "19." and insert "20."

Page 9, line 15, after "county" insert "containing a unit".

Page 9, line 16, delete "county." and insert "unit."

Page 9, line 20, after "county" insert "in which the unit".

Page 9, line 20, delete "," and insert "is located.".

Page 9, line 21, delete "20." and insert "21.".
Sec. 1. This chapter applies to a city that is the county seat of a county in which is located another city or a town that imposes a food and beverage tax under this article.

Sec. 2. The definitions in IC 6-9-12-1 apply throughout this chapter.

Sec. 3. (a) The fiscal body of a city may adopt an ordinance to impose an excise tax, known as the city food and beverage tax, on transactions described in section 4 of this chapter.

(b) If the fiscal body adopts an ordinance under subsection (a), the fiscal body shall immediately send a certified copy of the ordinance to the department of state revenue.

(c) If the fiscal body adopts an ordinance under subsection (a), the city food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance was adopted.

Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a transaction in which food or beverage is furnished, prepared, or served:

(1) for consumption at a location or on equipment provided by a retail merchant; or
(2) in the city in which the tax is imposed; and
(3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

(1) served by a retail merchant off the merchant's premises;
(2) sold by a retail merchant that ordinarily bags, wraps, or packages the food or beverage for immediate consumption on or near the retail merchant's premises, including food or beverage sold on a "take out" or "to go" basis; or
(3) sold by a street vendor.

(c) The city food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 5. A city food and beverage tax imposed on a food or beverage transaction described in section 4 of this chapter equals one percent (1%) of the gross retail income received by the merchant from the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

Sec. 6. A tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed with the payment of the tax imposed under this chapter may be made on a separate return or may be combined with the return filed for payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 7. The treasurer of state shall pay monthly the amounts received from the tax imposed under this chapter to the city fiscal officer upon warrants issued by the auditor of state.

Sec. 8. (a) If a tax is imposed under section 3 of this chapter, the city fiscal officer shall establish a fund and beverage tax receipts fund.

(b) The city fiscal officer shall deposit in this fund all amounts received under this chapter.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

Sec. 9. (a) A city shall use money in the fund established under section 8 of this chapter for only the following:

(1) Renovating the city hall.
(2) Constructing new police or fire stations, or both.
(3) Improving the city's sanitary sewers or wastewater treatment facilities, or both.
(4) Improving the city's storm water drainage systems.
(5) Other projects involving the city's water system or protecting the city's well fields, as determined by the city fiscal body.

Money in the fund may not be used for the operating costs of a project. In addition, the city may not initiate a project under this chapter after December 31, 2010.

(b) The fiscal body of the city may pledge money in the fund to pay bonds issued, loans obtained, and lease payments or other obligations incurred by or on behalf of the city or a special taxing district in the city to provide the projects described in subsection (a).

(c) Subsection (b) applies only to bonds, loans, lease payments, or obligations that are issued, obtained, or incurred after the date on which the tax is imposed under section 3 of this chapter.

(d) A pledge under subsection (b) is enforceable under IC 5-1-14-4.

Sec. 10. With respect to obligations for which a pledge has been made under section 9(b) of this chapter, the general assembly covenants with the holders of the obligations that this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the tax imposed under this chapter if the payment of any of the obligations is outstanding."

Motion prevailed.

HOUSE MOTION (Amendment 1299–1)

Mr. Speaker: I move that House Bill 1299 be amended to read as follows:

Page 9, line 21, after "establish" insert "for each unit in the county that imposes a tax under this chapter".

Page 9, line 25, delete "21." and insert "22.".

Page 9, line 26, delete "county" and insert "unit".

Page 9, line 28, delete "county." and insert "unit.".

Page 9, line 29, delete "22." and insert "23.".

Page 9, line 29, delete "county" and insert "unit".

Page 9, line 32, delete "county." and insert "unit".

Page 9, line 34, delete "county." and insert "unit".

Page 9, line 39, delete "county;" and insert "unit;".

Page 9, line 41, delete "23." and insert "24.".

Page 9, line 42, delete "county's" and insert "unit's".

Page 10, line 2, delete "24." and insert "25.".

Page 10, line 2, delete "county".

Page 10, line 3, delete "to the county".

Page 10, line 4, delete "fiscal body".

Page 10, line 4, delete "fund" and insert "funds".

Page 10, line 5, delete "20" and insert "21".

Page 10, line 23, delete "county".

Page 10, line 26, delete "county".

Page 10, line 42, delete "county".

Page 11, line 3, delete "county".

Page 11, line 4, delete "an ordinance to rescind the tax imposed" and insert "the county fiscal body adopts a resolution abolishing the food and beverage tax revenue committee. A county fiscal body may adopt a resolution under this subsection if the county fiscal body determines that each unit in the county that had imposed a tax under this chapter has adopted an ordinance to rescind the tax.".

Page 11, delete line 5.

Page 11, line 6, delete "25." and insert "26.".

Page 11, line 6, delete "the county" and insert "each unit subject to this chapter".

Page 11, line 13, delete "the county" and insert "a unit".

(Reference is to HB 1299 as printed February 25, 2005.)

Motion prevailed.

HOUSE MOTION (Amendment 1299–1)

Mr. Speaker: I move that House Bill 1299 be amended to read as follows:

Page 9, line 21, after "establish" insert "for each unit in the county that imposes a tax under this chapter".

Page 9, line 25, delete "21." and insert "22.".

Page 9, line 26, delete "county" and insert "unit".

Page 9, line 28, delete "county." and insert "unit.".

Page 9, line 29, delete "22." and insert "23.".

Page 9, line 29, delete "county" and insert "unit".

Page 9, line 32, delete "county." and insert "unit".

Page 9, line 34, delete "county." and insert "unit".

Page 9, line 39, delete "county;" and insert "unit;".

Page 9, line 41, delete "23." and insert "24.".

Page 9, line 42, delete "county's" and insert "unit's".

Page 10, line 2, delete "24." and insert "25.".

Page 10, line 2, delete "county".

Page 10, line 3, delete "to the county".

Page 10, line 4, delete "fiscal body".

Page 10, line 4, delete "fund" and insert "funds".

Page 10, line 5, delete "20" and insert "21".

Page 10, line 23, delete "county".

Page 10, line 26, delete "county".

Page 10, line 42, delete "county".

Page 11, line 3, delete "county".

Page 11, line 4, delete "an ordinance to rescind the tax imposed" and insert "the county fiscal body adopts a resolution abolishing the food and beverage tax revenue committee. A county fiscal body may adopt a resolution under this subsection if the county fiscal body determines that each unit in the county that had imposed a tax under this chapter has adopted an ordinance to rescind the tax.".

Page 11, delete line 5.

Page 11, line 6, delete "25." and insert "26.".

Page 11, line 6, delete "the county" and insert "each unit subject to this chapter".

Page 11, line 13, delete "the county" and insert "a unit".

(Reference is to HB 1299 as printed February 25, 2005.)

Motion prevailed.

FOLEY
Page 15, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 8. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commission" refers to the northwest Indiana transportation, infrastructure, and economic development coordination interim study commission established by this SECTION.

(b) The general assembly finds that:

(1) the proximity of Lake County to the third largest population center in the United States; and
(2) Lake County's location as the gateway between a highly populated northern corridor of Indiana counties and Illinois;

(presents unique transportation, economic development, and infrastructure challenges that require the establishment of the commission.

(c) There is established the northwest Indiana transportation, infrastructure, and economic development coordination interim study commission. The commission shall:

(1) review the planning, oversight, financing, and development of transportation services in northwest Indiana and recommend changes directed at:

(A) improving the service delivery for all citizens of the region;

(B) lowering long term costs; and

(C) consolidating organizational structures whenever possible.

(2) Review planned expansion of transportation infrastructure developments as to cost, scheduling, oversight, and authorities involved and recommend changes consistent with improving service delivery and economic development potential.

(3) Consider possible changes to economic development organizational structures and their financing across the region to facilitate economic growth and employment growth throughout northwest Indiana.

(4) Review other infrastructure development projects vital to northwest Indiana and how they may be facilitated.

(5) Study any other topic assigned by the legislative council.

(d) The commission consists of the following members:

(1) One (1) member appointed by the shoreline development commission (IC 36-7-13.5-2).

(2) One (1) member appointed by an airport development authority established by an eligible entity described in IC 8-22-3.7-4.5(1).

(3) One (1) member appointed by a regional transportation authority established under IC 36-9-3-2 and serving the metropolitan district.

(4) One (1) member appointed by a commuter transportation district established under IC 8-5-15 and serving the metropolitan district.

(5) One (1) member appointed by the northwestern Indiana regional planning commission established by IC 36-7-7.6-3.

(6) One (1) member appointed by the county executive of Porter County.

(7) One (1) member appointed by the county executive of LaPorte County.

(8) Four (4) members appointed by the president pro tempore of the senate in consultation with the minority leader of the senate, not more than two (2) of whom may be members of the same political party.

(9) Four (4) representatives appointed by the speaker of the house of representatives in consultation with the minority leader of the house of representatives, not more than two (2) of whom may be members of the same political party.

(e) Except as otherwise provided in this SECTION, the commission shall operate under the policies governing study committees adopted by the legislative council.

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

(g) This SECTION expires January 1, 2006.".

(Reference is to HB 1299 as printed February 25, 2005.)

AGUILERA

Upon request of Representatives Aguilera and Dobis, the Speaker ordered the roll of the House to be called. Roll Call 223: yeas 50, nays 49.

Pursuant to House Rule 27, Representative Whetstone called for the Speaker to vote. The Speaker voted nay. Roll Call 223: yeas 50, nays 50. Motion failed. The bill was ordered engrossed.

House Bill 1846

Representative Espich called down House Bill 1846 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 1846–4)

Mr. Speaker: I move that House Bill 1846 be amended to read as follows:

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

"SECTION 1. IC 4-31-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A person may not conduct, assist, or aid in conducting a horse racing meeting in which the pari-mutuel system of wagering is permitted unless that person secures a recognized meeting permit under this chapter.

(b) The commission may not issue a recognized meeting permit for:

(1) an activity other than horse racing meetings; or

(2) horse racing meetings conducted at:

(A) the state fairgrounds during a state fair; or

(B) a county fairgrounds.

However, except as provided in subsection (c), subdivision (2) does not prohibit the commission from issuing a recognized meeting permit for races to be conducted at the state fairgrounds at times when a fair is not in session.

(c) A recognized meeting permit may not be issued under this chapter before July 1, 2030, authorizing the pari-mutuel system of wagering at a horse racing meeting to be held in a county containing a consolidated city.

SECTION 2. IC 4-31-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) In enacting this chapter, it is the intent of the general assembly to do the following:

(1) Promote and encourage the development of the horse racing industry in Indiana.

(2) Provide for the establishment of satellite facilities that do not solely provide for wagering, but instead include amenities such as quality restaurants and quality handicapping facilities, so that all or part of the satellite facility will resemble the clubhouse facilities of a racetrack.

(3) Offer the potential for the additional creation of jobs, not only in the racing and wagering industry, but also in areas of employment such as parking attendants, waiters and waitresses, security guards, custodial workers, and food service personnel.

(b) An additional satellite facility license may not be issued under this chapter before July 1, 2030, for a satellite facility in a county containing a consolidated city.

SECTION 3. IC 4-33-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) This article applies only to the following:

(1) Counties contiguous to Lake Michigan.

(2) Counties contiguous to the Ohio River.

(3) A county that contains a historic hotel district.

(b) A license may not be issued before July 1, 2030, for the conducting of gambling games under this article in a county containing a consolidated city.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1846 as printed February 25, 2005.)

MURPHY

Representative Crawford rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.
HOUSE MOTION
(Amendment 1846–3)

Mr. Speaker: I move that House Bill 1846 be amended to read as follows:

Delete the title and insert the following:

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

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

"SECTION 1. IC 4-31-2-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11.5. "Pari-mutuel pull tab"
has the meaning set forth in IC 4-35-2-5.

SECTION 2. IC 4-31-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A county fiscal body may adopt an ordinance permitting the filing of applications under IC 4-31-5 to conduct pari-mutuel wagering on horse races at racetracks in the county. However, before adopting the ordinance, the county fiscal body must:

(1) conduct a public hearing on the proposed ordinance; and
(2) publish notice of the public hearing in the manner prescribed by IC 5-3-1.

(b) The county fiscal body may:

(1) require in the ordinance adopted by the county fiscal body that before applications under IC 4-31-5 to conduct pari-mutuel wagering on horse races at racetracks in the county may be filed, the voters of the county must approve the conducting of horse racing meetings in the county under section 3 of this chapter; or
(2) amend an ordinance already adopted by the county fiscal body to require that before applications under IC 4-31-5 to conduct pari-mutuel wagering on horse races at racetracks in the county may be filed, the voters of the county must approve the conducting of horse racing meetings in the county under section 3 of this chapter.

An ordinance adopted under this section may not be amended to apply to a person who has already been issued a permit under IC 4-31-5 before amendment of the ordinance.

(c) An ordinance adopted under this section authorizing a person to conduct pari-mutuel wagering on horse races at racetracks in the county may not be adopted or amended in a manner that restricts a permit holder's ability to sell pari-mutuel pull tabs under IC 4-35. An ordinance adopted by the county fiscal body permitting the sale of pari-mutuel pull tabs is not a prerequisite for the lawful sale of pari-mutuel pull tabs under IC 4-35.

SECTION 3. IC 4-31-5.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) As used in this section, "live racing day" means a day on which at least eight (8) live horse races are conducted.

(b) The commission's authority to issue satellite facility licenses is subject to the following conditions:

(1) Except as provided in subsection (c), the commission may issue four (4) satellite facility licenses to each permit holder that:

(A) conducts at least one hundred twenty (120) live racing days per year at the racetrack designated in the permit holder's permit; and
(B) meets the other requirements of this chapter and the rules adopted under this chapter.

If a permit holder that operates satellite facilities does not meet the required minimum number of live racing days, the permit holder may not operate the permit holder's satellite facilities during the following year. However, the requirement for one hundred twenty (120) live racing days does not apply if the commission determines that the permit holder is prevented from conducting live horse racing as a result of a natural disaster or other event over which the permit holder has no control. In addition, if the initial racing meeting conducted by a permit holder commences at such a time as to make it impractical to conduct one hundred twenty (120) live racing days during the permit holder's first year of operations, the commission may authorize the permit holder to conduct simulcast wagering during the first year of operations with fewer than one hundred twenty (120) live racing days.

(2) Each proposed satellite facility must be covered by a separate application. The timing for filing an initial application for a satellite facility license shall be established by the rules of the commission.

(3) A satellite facility must:

(A) have full dining service available;
(B) have multiple screens to enable each patron to view simulcast races; and
(C) be designed to seat comfortably a minimum of four hundred (400) persons.

(4) In determining whether a proposed satellite facility should be approved, the commission shall consider the following:

(A) The purposes and provisions of this chapter.
(B) The public interest.
(C) The impact of the proposed satellite facility on live racing.
(D) The impact of the proposed satellite facility on the local community.
(E) The potential for job creation.
(F) The quality of the physical facilities and the services to be provided at the proposed satellite facility.
(G) Any other factors that the commission considers important or relevant to its decision.

(5) The commission may not issue a license for a satellite facility to be located in a county unless IC 4-31-4 has been satisfied.

(c) After December 31, 2004, a permit holder may not submit an initial application for a license to operate an additional satellite facility under this chapter. After December 31, 2004, the commission may not issue an initial license for a new satellite facility. A satellite facility license issued before January 1, 2005, may be renewed annually subject to the requirements of this chapter.

SECTION 4. IC 4-31-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A person holding a permit to conduct a horse racing meeting or a license to operate a satellite facility may provide a place in the racing meeting grounds or enclosure or the satellite facility at which the person may conduct and supervise the pari-mutuel system of wagering by patrons of legal age on the horse races conducted or simulcast by the person. The person may not permit or use:

(1) another place other than that provided and designated by the person; or
(2) another method or system of betting or wagering.

However, a person holding a permit to conduct a horse racing meeting may permit wagering on pari-mutuel pull tabs at the person's racetrack or satellite facility as permitted by IC 4-35.

(b) Except as provided in section 7 of this chapter and IC 4-31-5.5, the pari-mutuel system of wagering may not be conducted on any races except the races at the racetrack, grounds, or enclosure for which the person holds a permit.

SECTION 5. IC 4-31-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A person less than eighteen (18) years of age may not wager at a horse racing meeting.

(b) A person less than seventeen (17) eighteen (18) years of age may not enter the grandstand, clubhouse, or similar areas of a racetrack at which wagering is permitted unless accompanied by a person who is at least twenty-one (21) years of age.

(c) A person less than eighteen (18) years of age may not enter a satellite facility.

(d) A person less than twenty-one (21) years of age may not enter the part of a racetrack or satellite facility in which pari-mutuel pull tabs are sold and redeemed.

SECTION 6. IC 4-31-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. A person that holds a permit to conduct a horse racing meeting or a license to operate a satellite facility shall withhold:

(1) eighteen percent (18%) of the total of money wagered on each day at the racetrack or satellite facility (including money wagered on exotic wagering pools, but excluding money..."
wagered on pari-mutuel pull tabs under IC 4-35); plus
(2) an additional three and one-half percent (3.5%) of the total of all money wagered on exotic wagering pools on each day at the racetrack or satellite facility.

SECTION 7. IC 4-32-15-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 0.5. This chapter does not apply to the sale of pari-mutuel pull tabs under IC 4-35.

SECTION 8. IC 4-33-2-163 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16.3. "Pari-mutuel pull tab" has the meaning set forth in IC 4-35-2-5.

SECTION 9. IC 4-33-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The commission shall adopt rules under IC 4-22-2 for the following purposes:
(1) Administering this article.
(2) Establishing the conditions under which riverboat gambling in Indiana may be conducted.
(3) Providing for the prevention of practices detrimental to the public interest and providing for the best interests of riverboat gambling.
(4) Establishing rules concerning inspection of riverboats and the review of the permits or licenses necessary to operate a riverboat.
(5) Imposing penalties for noncriminal violations of this article.

(6) Establishing the conditions under which the sale, purchase, and redemption of pari-mutuel pull tabs may be conducted under IC 4-35.

SECTION 10. IC 4-33-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The department shall place in the state general fund the tax revenue collected under this chapter.

(b) Except as provided by subsections (c) and (d) and IC 6-3.1-20-7, the treasurer of state shall quarterly pay the following amounts:

(1) Except as provided in subsection (k), one dollar ($1) of the admissions tax collected by the licensed owner for each person embarking on a gambling excursion during the quarter or admitted to a riverboat that has implemented flexible scheduling under IC 4-33-6-21 during the quarter shall be paid to:
(A) the city in which the riverboat is docked, if the city:
(i) is located in a county having a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000); or
(ii) is contiguous to the Ohio River and is the largest city in the county; and
(B) the county in which the riverboat is docked, if the riverboat is not docked in a city described in clause (A).
(2) Except as provided in subsection (k), one dollar ($1) of the admissions tax collected by the licensed owner for each person:
(A) embarking on a gambling excursion during the quarter;
(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county treasurer of the county in which the riverboat is docked. The county treasurer shall distribute the money received under this subdivision as follows:
(A) Twenty-five percent (25%) of the admissions tax collected during the quarter shall be paid to the county treasurer of the county in which the riverboat is docked. The county treasurer shall distribute the money received under this subdivision as follows:

(B) Twenty percent (20%) shall be quarterly distributed to the county treasurer of a county having a population of more than ten thousand seven hundred (10,700) but less than twelve thousand (12,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(C) Sixty percent (60%) shall be retained by the county where the riverboat is docked for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body shall provide for the distribution of the money received under this clause to the following under a formula established by the county fiscal body:
(i) A county having a population of more than two thousand two hundred (2,200) but less than one thousand five hundred (1,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).
(ii) A town having a population of more than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).

(2) Sixteen percent (16%) of the admissions tax collected during the quarter shall be paid in equal amounts to each town that:
(A) is located in the county in which the riverboat docks; and
(B) contains a historic hotel.

The town council shall appropriate a part of the money received by the town under this subdivision to the budget of the town's tourism commission.

(3) Nine percent (9%) of the admissions tax collected during the quarter shall be paid to the historic hotel preservation commission established under IC 36-7-11.5.

(4) Twenty-five percent (25%) of the admissions tax collected during the quarter shall be paid to the West Baden Springs historic hotel preservation and maintenance fund established by IC 36-7-11.5-11(b).

(5) Twenty-five percent (25%) of the admissions tax collected during the quarter shall be paid to the department of commerce to be used by the department for the development and implementation of a regional economic development strategy to assist the residents of the county in which the riverboat is located and residents of contiguous counties in improving their quality of life and to help promote successful and sustainable communities. The regional economic development strategy must include goals concerning the following issues:
(A) Job creation and retention.
(B) Infrastructure, including water, wastewater, and storm water infrastructure needs.
(C) Housing.
(D) Workforce training.
(E) Health care.
(F) Local planning.
(G) Land use.
(H) Assistance to regional economic development groups.
(I) Other regional development issues as determined by the department.

(d) With respect to tax revenue collected from a riverboat that operates from a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), the treasurer of state shall quarterly pay the following amounts:

(1) Except as provided in subsection (k), one dollar ($1) of the admissions tax collected by the licensed owner for each person:
(A) embarking on a gambling excursion during the quarter; or
(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21; shall be paid to the city in which the riverboat is docked.

(2) Except as provided in subsection (k), one dollar ($1) of the admissions tax collected by the licensed owner for each person:
(A) embarking on a gambling excursion during the quarter; or
(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21; shall be paid to the city in which the riverboat is docked.

(3) Except as provided in subsection (k), nine cents ($0.09) of the admissions tax collected by the licensed owner for each person:
(A) embarking on a gambling excursion during the quarter; or
(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21; shall be paid to the northwest Indiana law enforcement training center.

(5) Except as provided in subsection (k), fifteen cents ($0.15) of the admissions tax collected by the licensed owner for each person:
(A) embarking on a gambling excursion during the quarter; or
(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21; shall be paid to the state fair commission for use in any activity that the commission is authorized to carry out under IC 15-1.5-3.

(6) Except as provided in subsection (k), ten cents ($0.10) of the admissions tax collected by the licensed owner for each person:
(A) embarking on a gambling excursion during the quarter; or
(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21; shall be paid to the division of mental health and addiction. The division shall allocate at least twenty-five percent (25%) of the funds derived from the admissions tax to the prevention and treatment of compulsive gambling.

(7) Except as provided in subsections (k) and (l), sixty-five cents ($0.65) of the admissions tax collected by the licensed owner for each person embarking on a gambling excursion during the quarter or admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21 shall be paid to the Indiana horse racing commission to be distributed as follows, in amounts determined by the Indiana horse racing commission, for the promotion and operation of horse racing in Indiana:
(A) To one (1) or more breed development funds established by the Indiana horse racing commission under IC 4-31-11-10.
(B) To a racetrack that was approved by the Indiana horse racing commission under IC 4-31. The commission may make a grant under this clause only for purses, promotions, and routine operations of the racetrack. No grants shall be made for long term capital investment or construction, and no grants shall be made before the racetrack becomes operational and is offering a racing schedule.

(e) Money paid to a unit of local government under subsection (b)(1) through (b)(2), (c)(1) through (c)(2), or (d)(1) through (d)(2):

(1) must be paid to the fiscal officer of the unit and may be deposited in the unit's general fund or riverboat fund established under IC 36-1-8-9, or both;
(2) may not be used to reduce the unit's maximum levy under IC 6-1.1-18.5 but may be used at the discretion of the unit to reduce the property tax levy of the unit for a particular year;
(3) may be used for any legal or corporate purpose of the unit, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4; and
(4) is considered miscellaneous revenue.

(f) Money paid by the treasurer of state under subsection (b)(3) or (d)(3) shall be:

(1) deposited in:
(A) the county convention and visitor promotion fund; or
(B) the county's general fund if the county does not have a convention and visitor promotion fund; and
(2) used only for the tourism promotion, advertising, and economic development activities of the county and community.

(g) Money received by the division of mental health and addiction under subsections (b)(5) and (d)(6):

(1) is annually appropriated to the division of mental health and addiction;
(2) shall be distributed to the division of mental health and addiction at times during each state fiscal year determined by the budget agency; and
(3) shall be used by the division of mental health and addiction for programs and facilities for the prevention and treatment of addictions to drugs, alcohol, and compulsive gambling, including the creation and maintenance of a toll free telephone line to provide the public with information about these addictions. The division shall allocate at least twenty-five
percent (25%) of the money received to the prevention and treatment of compulsive gambling.

(h) This subsection applies to the following:
(1) Each entity receiving money under subsection (b).
(2) Each entity receiving money under subsection (d)(1) through (d)(2).
(3) Each entity receiving money under subsection (d)(5) through (d)(7).

The treasurer of state shall determine the total amount of money paid by the treasurer of state to an entity subject to this subsection during the state fiscal year 2002. The amount determined under this subsection is the base year revenue for each entity subject to this subsection. The treasurer of state shall certify the base year revenue determined under this subsection to each entity subject to this subsection.

(i) This subsection applies to an entity receiving money under subsection (d)(3) or (d)(4). The treasurer of state shall determine the total amount of money paid by the treasurer of state to the entity described in subsection (d)(3) during state fiscal year 2002. The amount determined under this subsection multiplied by nine-tenths (0.9) is the base year revenue for the entity described in subsection (d)(3). The amount determined under this subsection multiplied by one-tenth (0.1) is the base year revenue for the entity described in subsection (d)(4). The treasurer of state shall certify the base year revenue determined under this subsection to each entity subject to this subsection.

(j) This subsection does not apply to an entity receiving money under subsection (c). For state fiscal years beginning after June 30, 2002, the total amount of money distributed to an entity under this section during a state fiscal year may not exceed the entity's base year revenue as determined under subsection (h) or (i). If the treasurer of state determines that the total amount of money distributed to an entity under this section during a state fiscal year is less than the entity's base year revenue, the treasurer of state shall make a supplemental distribution to the entity under IC 4-33-13-5(g).

(k) This subsection does not apply to an entity receiving money under subsection (c). For state fiscal years beginning after June 30, 2002, the treasurer of state shall pay that part of the riverboat admissions taxes that:
(1) exceed a particular entity's base year revenue; and
(2) would otherwise be due to the entity under this section; to the property tax replacement fund instead of to the entity.

(l) The maximum amount paid to the Indiana horse racing commission under this section in a state fiscal year ending before July 1, 2007, may not exceed the remainder of:
(1) the Indiana horse racing commission's base year revenue as determined under subsection (h); minus
(2) the amount of pari-mutuel pull tab wagering taxes, if any, paid to the Indiana horse racing commission under IC 4-35-8-3 in the state fiscal year.

The treasurer of state shall pay the amount of the admissions taxes equal to the amount of pari-mutuel pull tab wagering taxes subtracted from the Indiana horse racing commission's base year revenue under this subsection to the property tax replacement fund instead of to the Indiana horse racing commission. For a state fiscal year beginning after June 30, 2007, the Indiana horse racing commission is not entitled to a distribution of admissions taxes collected under this chapter. After June 30, 2007, the treasurer of state shall pay the admissions taxes specified in subsections (b)(6) and (d)(7) to the property tax replacement fund instead of to the Indiana horse racing commission.

Page 7, between lines 34 and 35, begin a new paragraph and insert:
"SECTION 13. IC 4-33-18-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Nothing in this chapter may be construed to limit the powers or responsibilities of:
(1) the Indiana state lottery commission under IC 4-30; (2) the Indiana horse racing commission under IC 4-31; (3) the department of state revenue under IC 4-32; or (4) the Indiana gaming commission under IC 4-33 or IC 4-35.
(b) The department may not exercise any administrative or regulatory powers with respect to:
(1) the Indiana lottery under IC 4-30; (2) pari-mutuel horse racing under IC 4-31; (3) charity gaming under IC 4-32; or (4) riverboat casino gambling under IC 4-33; or (5) pari-mutuel pull tabs under IC 4-35.

SECTION 14. IC 4-35 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

ARTICLE 35. PARI-MUTUEL PULL TABS
Chapter 1. Application
Sec. 1. This article applies only to the sale of pari-mutuel pull tabs by a permit holder licensed under IC 4-35-5.
Sec. 2. This article does not apply to the sale of pull tabs by:
(1) the state lottery commission under IC 4-30; or (2) a qualified organization (as defined in IC 4-32-6-20) under IC 4-32.

Chapter 2. Definitions
Sec. 1. The definitions in this chapter apply throughout this article.
Sec. 2. "Adjusted gross receipts" means:
(1) the total of all cash and property (including checks received by a permit holder, whether collected or not) received by a permit holder from pari-mutuel pull tab sales; minus
(2) the total of:
(A) all cash paid out to patrons as winnings for pari-mutuel pull tabs; and (B) uncollectible pari-mutuel pull tab receivables, not to exceed the lesser of:
(i) a reasonable provision for uncollectible patron checks received from pari-mutuel pull tab sales; or (ii) two percent (2%) of the total of all sums, including checks, whether collected or not, less the amount paid out to patrons as winnings for pari-mutuel pull tabs.

For purposes of this section, a counter or personal check that is invalid or unenforceable under this article is considered cash received by the permit holder from pari-mutuel pull tab sales.

Sec. 3. "Commission" refers to the Indiana gaming commission established by IC 4-33-3-1.

Sec. 4. "Department" refers to the department of state revenue.

Sec. 5. "Pari-mutuel pull tab" means a game offered to the public in which a person who purchases a ticket or simulated ticket has the opportunity to share in a prize pool, multiple prize pools, or a shared prize pool consisting of the total amount wagered in the game minus deductions by the permit holder selling the pari-mutuel pull tab and other deductions either permitted or required by law.

Sec. 6. "Permit holder" means a person holding a permit issued under IC 4-31-5 to conduct a pari-mutuel horse racing meeting.

Sec. 7. "Racetrack" means the racetrack specified in a permit holder's permit to conduct a pari-mutuel horse racing meeting.

Sec. 8. "Supplier's license" means a license issued under IC 4-35-6.

Sec. 1. All shipments of gambling devices, including pari-mutuel pull tab machines, to permit holders in Indiana, the registering, recording, and labeling of which have been completed by the manufacturer or dealer in accordance with 15 U.S.C. 1171 through 15 U.S.C. 1178, are legal shipments of gambling devices into Indiana.

Sec. 2. Under 15 U.S.C. 1172, approved January 2, 1951, the state of Indiana, acting by and through elected and qualified members of the general assembly, declares that the state is exempt from 15 U.S.C. 1172.

Chapter 4. Powers and Duties of the Indiana Gaming Commission
Sec. 1. The commission shall regulate and administer the sale, purchase, and redemption of pari-mutuel pull tabs under this article.

Sec. 2. (a) The commission shall adopt rules under IC 4-22-2, including emergency rules adopted under a procedure identical to the procedure set forth in IC 4-22-2.37-1, to implement this article, including rules that prescribe:
(1) an approval process for pari-mutuel pull tab games that
requires periodic testing of the games and equipment by an independent entity under the oversight of the commission to ensure the integrity of the games to the public;
(2) a system of internal audit controls;
(3) a method of payment for pari-mutuel pull tab prizes that allows a player to transfer credits from one (1) terminal or device to another;
(4) a method of payment for pari-mutuel pull tab prizes that allows a player to redeem a winning ticket for additional play tickets or credit to permit purchase of additional play tickets;
(5) requirements for a license to sell pari-mutuel pull tabs that a permit holder must obtain from the commission before selling pari-mutuel pull tabs; and
(6) any other procedure or requirement necessary for the efficient and economical operation of the pari-mutuel pull tab games and the convenience of the public.
(b) The commission may enter into a contract with the Indiana horse racing commission for the provision of services necessary to administer pari-mutuel pull tab games.

Chapter 5. Pari-Mutuel Pull Tab License
Sec. 1. The commission may issue a license to a permit holder to sell pari-mutuel pull tabs under this article at the permit holder's racetrack.
Sec. 2. Before issuing a license to a permit holder under this chapter, the commission shall subject the permit holder to a background investigation similar to a background investigation required for an applicant for a riverboat owner's license under IC 4-33-6.
Sec. 3. An initial pari-mutuel pull tab license expires five (5) years after the effective date of the license. Unless the pari-mutuel pull tab license is terminated or revoked, the pari-mutuel pull tab license may be renewed annually thereafter upon:
(1) the payment of an annual renewal fee determined by the commission; and
(2) a determination by the commission that the permit holder satisfies the conditions of this chapter.
Sec. 4. (a) A permit holder holding a pari-mutuel pull tab license shall undergo a complete investigation every three (3) years to determine whether the permit holder remains in compliance with this article.
(b) Notwithstanding subsection (a), the commission may investigate a permit holder at any time the commission determines it is necessary to ensure that the permit holder remains in compliance with this article.
Sec. 5. A permit holder shall bear the cost of an investigation or a reinvestigation of the permit holder and any investigation resulting from a potential transfer of ownership.
Sec. 6. The commission may assess an administrative fee to a permit holder offering pari-mutuel pull tab games in an amount that allows the commission to recover all the commission's costs of administering this article.

Chapter 6. Pari-Mutuel Pull Tab Suppliers
Sec. 1. The commission may issue a supplier's license under this chapter to a person if:
(1) the person has:
(A) applied for the supplier's license;
(B) paid a nonrefundable application fee set by the commission;
(C) paid a five thousand dollar ($5,000) annual supplier's license fee; and
(D) submitted, on forms provided by the commission, two sets of:
(i) the individual's fingerprints, if the applicant is an individual; or
(ii) fingerprints for each officer and director of the applicant, if the applicant is not an individual; and
(2) the commission has determined that the applicant is eligible for a supplier's license.
Sec. 2. (a) A holder of a supplier's license issued under this chapter may sell, lease, and contract to sell or lease pari-mutuel pull tab terminals and devices to a permit holder authorized to sell and redeem pari-mutuel pull tabs under IC 4-35-5.
(b) Pari-mutuel pull tab terminals and devices may not be distributed unless the terminals and devices conform to standards adopted by the commission.
Sec. 3. A person may not receive a supplier's license under this chapter if:
(1) the person has been convicted of a felony under Indiana law, the laws of any other state, or the laws of the United States;
(2) the person has knowingly or intentionally submitted an application for a supplier's license under this chapter that contains false information;
(3) the person is a member of the commission;
(4) the person is an officer, a director, or a managerial employee of a person described in subdivision (1) or (2);
(5) the person employs an individual who:
(A) is described in subdivision (1), (2), or (3); and
(B) participates in the management or operation of gambling operations authorized under this article;
(6) the person owns more than a ten percent (10%) ownership interest in any other person holding a permit issued under IC 4-33-1; or
(7) a license issued to the person:
(A) under this article; or
(B) to supply gaming supplies in another jurisdiction; has been revoked.
Sec. 4. A person may not furnish pari-mutuel pull tab terminals or devices to a permit holder unless the person possesses a supplier's license.
Sec. 5. (a) A supplier shall furnish to the commission a list of all pari-mutuel pull tab terminals and devices offered for sale or lease in connection with the sale of pari-mutuel pull tabs authorized under this article.
(b) A supplier shall keep books and records for the furnishing of pari-mutuel pull tab terminals and devices to permit holders. The books and records must be separate from books and records of any other business operated by the supplier.
(c) A supplier shall file a quarterly return with the commission listing all sales and leases.
(d) A supplier shall permanently affix the supplier's name to all pari-mutuel pull tab terminals or devices that the supplier provides to permit holders under this chapter.
Sec. 6. A supplier's pari-mutuel pull tab terminals or devices that are used by a person in an unauthorized gambling operation shall be forfeited to the state.
Sec. 7. Pari-mutuel pull tab terminals and devices that are provided by a supplier may be:
(1) repaired on the premises of a racetrack; or
(2) removed for repair from the racetrack to a facility owned by the permit holder.
Sec. 8. (a) Unless a supplier's license is suspended, expires, or is revoked, the supplier's license may be renewed annually upon:
(1) the payment of a five thousand dollar ($5,000) annual renewal fee; and
(2) a determination by the commission that the holder of the supplier's license is in compliance with this article.
(b) The holder of a supplier's license shall undergo a complete investigation every three (3) years to determine whether the holder of the supplier's license is in compliance with this article.
(c) Notwithstanding subsection (b), the commission may investigate the holder of a supplier's license at any time the commission determines it is necessary to ensure that the holder of the supplier's license is in compliance with this article.
(d) The holder of a supplier's license shall bear the cost of an investigation or reinvestigation of the licensee and any investigation resulting from a potential transfer of ownership.

Chapter 7. Conduct of Pari-Mutuel Pull Tab Games
Sec. 1. A pari-mutuel pull tab game must be conducted in the following manner:
(1) Each set of pari-mutuel pull tabs must have a predetermined:
(A) total purchase price; and
(B) amount of prizes.
(2) Randomly ordered pari-mutuel pull tabs may be distributed from an approved location or from a distribution device to:
(A) the permit holder at the permit holder's racetrack; or
(B) a terminal or device of the permit holder at the permit holder's racetrack.

(3) A pari-mutuel pull tab must be presented to a player in the form of a paper ticket or display on a terminal or device.

(4) Game results must be initially covered or otherwise concealed from view on the pari-mutuel pull tab ticket, terminal, or device so that the number, letter, symbol, or set of numbers, letters, or symbols cannot be seen until the concealing medium is removed.

(5) A winner is identified after the display of the game results when a player removes the concealing medium of the pari-mutuel pull tab ticket or display on a terminal or device.

(6) A winner shall receive the prize or prizes posted or displayed for the game from the permit holder.

Sec. 2. A person less than twenty-one (21) years of age may not purchase a pari-mutuel pull tab.

Sec. 3. The sale price of a pari-mutuel pull tab may not exceed ten dollars ($10).

Sec. 4. The sale, purchase, and redemption of pari-mutuel pull tabs are limited to a racetrack operated by a permit holder licensed to sell pari-mutuel pull tab tickets under IC 4-35-5.

Sec. 5. A permit holder may not install more than one thousand five hundred (1,500) pari-mutuel pull tab terminals or devices on the premises of the permit holder's racetrack.

Sec. 6. The number and amount of the prizes in a pari-mutuel pull tab game must be finite. However, the commission may not limit the number or amount of prizes in a pari-mutuel pull tab game.

Sec. 7. A list of prizes for winning pari-mutuel pull tabs must be posted or displayed at a location where the pari-mutuel pull tabs are sold.

Sec. 8. A permit holder may close a pari-mutuel pull tab game at any time.

Sec. 9. A pari-mutuel pull tab terminal or device may be operated by a player without the assistance of the permit holder for the sale and redemption of pari-mutuel pull tabs.

Sec. 10. A pari-mutuel pull tab terminal or device may not dispense coins or currency as prizes for winning pari-mutuel pull tabs. Prizes awarded by a terminal or device must be in the form of credits for additional play or certificates redeemable for cash or prizes.

Chapter 8. Taxation of Pari-Mutuel Pull Tabs

Sec. 1. (a) A tax is imposed on the adjusted gross receipts received from the sale of pari-mutuel pull tabs authorized under this article at the rate of thirty-two percent (32%).

(b) A permit holder shall remit the tax imposed by this section to the department before the close of the business day following the day the pari-mutuel pull tabs are sold.

(c) The department may require payment under this section to be made by electronic funds transfer (as defined in IC 4-8.1-2-7(f)).

(d) If the department requires taxes to be remitted under this chapter through electronic funds transfer, the department may allow the permit holder to file a monthly report to reconcile the amounts remitted to the department.

(e) The department may allow taxes remitted under this section to be reported on the same form used for taxes paid under IC 4-31-9.

Sec. 2. (a) The state pull tab wagering fund is established. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) The department shall deposit tax revenue collected under section 1 of this chapter in the state pull tab wagering fund.

(c) Money in the fund is appropriated for the purposes of this chapter.

Sec. 3. (a) This section applies to the first twenty-seven million two hundred five thousand two hundred eighty-four dollars ($27,205,284) deposited in the state pull tab wagering fund under section 2 of this chapter in a state fiscal year ending before July 1, 2007.

(b) Before the fifteenth day of each month, the treasurer of state shall distribute the tax revenue deposited in the state pull tab wagering fund in the preceding month to the Indiana horse racing commission to be distributed in amounts determined by the Indiana horse racing commission as follows:

(1) To one (1) or more breed development funds established by the Indiana horse racing commission under IC 4-31-11-10.

(2) To a racetrack that was approved by the Indiana horse racing commission under IC 4-31. The commission may make the payment under this clause only for purses, promotions, and routine operations of the racetrack. No grants shall be made for long term capital investment or construction, and no grants shall be made before the racetrack becomes operational and is offering a racing schedule.

Sec. 4. (a) This section applies to the tax revenue deposited in the state pull tab wagering fund that exceeds twenty-seven million two hundred five thousand two hundred eighty-four dollars ($27,205,284) in a state fiscal year ending before July 1, 2007.

(b) Before the fifteenth day of each month, the treasurer of state shall transfer the remaining tax revenue as follows:

(1) Seventy percent (70%) to the auditor of state for distribution under subsection (c).

(2) Thirty percent (30%) to the state revenue sharing fund established under section 11 of this chapter.

(c) The auditor of state shall deposit in a special account for a county containing a consolidated city the first forty-six million dollars ($46,000,000) set aside in a state fiscal year under subsection (b)(1). The auditor of state shall transfer money in the special account to the capital improvement board of managers established under IC 36-10-9-3 on a monthly basis as the money is received. The remainder of the money set aside under subsection (b)(1) shall be deposited in the state general fund.

Sec. 5. (a) This section applies to a state fiscal year beginning after June 30, 2007, and ending before July 1, 2036.

(b) Before the fifteenth day of each month, the treasurer of state shall transfer the tax revenue deposited in the state pull tab wagering fund under section 2 of this chapter in the preceding month as follows:

(1) Seventy percent (70%) to the auditor of state for distribution under subsection (c).

(2) Thirty percent (30%) to the state revenue sharing fund established under section 11 of this chapter.

(c) The auditor of state shall deposit in a special account for a county containing a consolidated city the first forty-six million dollars ($46,000,000) set aside in a state fiscal year under subsection (b)(1). The auditor of state shall transfer money in the special account to the capital improvement board of managers established under IC 36-10-9-3 on a monthly basis as the money is received. The remainder of the money set aside under subsection (b)(1) shall be deposited in the state general fund.

Sec. 6. (a) This section applies to a state fiscal year beginning after June 30, 2036.

(b) Before the fifteenth day of each month, the treasurer of state shall transfer the tax revenue deposited in the state pull tab wagering fund under section 2 of this chapter in the preceding month as follows:

(1) Seventy percent (70%) to the state general fund.

(2) Thirty percent (30%) to the state revenue sharing fund established under section 11 of this chapter.

Sec. 7. (a) Before the fifteenth day of each month, a permit holder shall pay to the Indiana horse racing commission for the promotion of horse racing a fee of fifteen percent (15%) of the permit holder's adjusted gross receipts from the sale of pari-mutuel pull tabs for the previous month.

(b) Subject to subdivision (1)(C), the Indiana horse racing commission shall distribute the money that is paid under subdivision (a) as follows:

(1) Eighty-one percent (81%) for the following purposes:
(A) Forty-six percent (46%) for thoroughbred purposes as follows:
(i) Ninety-eight and five-tenths percent (98.5%) for thoroughbred purses.
(ii) One and two-tenths percent (1.2%) to the horsemen's association representing thoroughbred...
owners and trainers.
(iii) Three-tenths of one percent (0.3%) to the horsemen's association representing thoroughbred owners and breeders.
(B) Forty-six percent (46%) for standardbred purposes as follows:
(i) Ninety-eight and five-tenths percent (98.5%) for standardbred purses.
(ii) One and five-tenths percent (1.5%) to the horsemen’s association representing standardbred owners and trainers.
(C) Eight percent (8%) for quarterhorse purposes as follows:
(i) Ninety-five percent (95%) for quarterhorse purses.
(ii) Five percent (5%) to the horsemen's association representing quarterhorse owners and trainers.
However, in the first year after the commencement of pull tab operations, the money distributed under this clause may not exceed the lesser of two million seven hundred thousand dollars ($2,700,000) or eight percent (8%) of the money paid under this subdivision. If quarterhorse races average at least seven and five-tenths (7.5) horses per gate in the first year after the commencement of pull tab operations or in a subsequent year, the money distributed under this clause for quarterhorse purposes shall be increased by ten percent (10%) in the following year. However, the money distributed under this clause may not exceed eight percent (8%) of the total amount of money distributed under this subdivision. If the amount of money distributed under this clause is less than eight percent (8%) of the total amount of money distributed under this subdivision in a particular year, the amounts distributed under clauses (A) and (B) for that year shall be increased equally in proportional amounts.
(2) Nineteen percent (19%) to the breed development funds established under IC 4-31-11-10 in the same proportion that money is distributed for the purposes of each breed under subdivision (1).
Sec. 8. (a) A local wagering tax is imposed on the adjusted gross receipts received from pari-mutuel pull tab wagering authorized under this article at the rate of seven percent (7%).
(b) A permit holder shall remit the tax imposed by this section to the department before the close of the business day following the day the wagers are made.
(c) The department may require payment under this section to be made by electronic funds transfer (as defined in IC 4-8.1-2-7(f)).
(d) If the department requires taxes to be remitted under this chapter through electronic funds transfer, the department may allow the permit holder to file a monthly report to reconcile the amounts remitted to the department.
(e) The department may allow taxes remitted under this section to be reported on the same form used for taxes paid under section 1 of this chapter.
Sec. 9. (a) The local racetrack gaming fund is established. Money in the fund does not revert to the state general fund at the end of a state fiscal year.
(b) The department shall deposit tax revenue collected under section 8 of this chapter in the local racetrack gaming fund.
(c) The treasurer of state shall establish a separate account within the fund for each county containing a racetrack. Each account consists of the local wagering taxes remitted by the county's racetrack under section 8 of this chapter and deposited into the fund under subsection (b).
(d) Money in the fund is appropriated for the purposes of this chapter.
Sec. 10. The treasurer of state shall distribute the taxes deposited in the account established under section 9 of this chapter to each county containing a racetrack as follows:
(1) To each city located in the county according to the ratio the city's population bears to the total population of the county.
(2) To each town located in the county according to the ratio the town's population bears to the total population of the county.
(3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be retained by the county.
Sec. 11. (a) As used in this section, "eligible county" means a county that does not contain any of the following:
(1) A riverboat licensed under IC 4-33.
(2) A racetrack authorized to sell pari-mutuel pull tabs under this article.
(b) The state revenue sharing fund is established. The fund shall be administered by the treasurer of state. 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. Money in the fund does not revert to the state general fund at the end of a state fiscal year.
(c) Before August 15, 2006, and each year thereafter, the treasurer of state shall distribute the money deposited in the state revenue sharing fund under this chapter in the previous state fiscal year to the county treasurer of each eligible county according to the ratio that the county's population bears to the total population of the eligible counties. The county auditor shall distribute the money received by an eligible county under this subsection as follows:
(1) To each city located in the county according to the ratio the city's population bears to the total population of the county.
(2) To each town located in the county according to the ratio the town's population bears to the total population of the county.
(3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be retained by the county.
(d) Money in the fund is appropriated continuously for the purposes of this section.
Sec. 12. Money paid to a political subdivision under this chapter:
(1) must be paid to the fiscal officer of the political subdivision and must be deposited in the political subdivision's general fund;
(2) may not be used to reduce the political subdivision's maximum levy under IC 6-1.1 but may be used at the discretion of the political subdivision to reduce the property tax levy of the political subdivision for a particular year;
(3) may be used for any purpose specified in this chapter or for any other legal or corporate purpose of the political subdivision, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4; and
(4) is considered miscellaneous revenue.
Chapter 9. Penalties
Sec. 1. A person who knowingly or intentionally aids, induces, or causes a person who is:
(1) less than twenty-one (21) years of age; and
(2) not an employee of a pari-mutuel pull tab operation licensed under this article;
to enter or attempt to enter the pari-mutuel pull tab operation commits a Class A misdemeanor.
Sec. 2. A person who:
(1) is not an employee of a pari-mutuel pull tab operation licensed under this article;
(2) is less than twenty-one (21) years of age; and
(3) knowingly or intentionally enters the pari-mutuel pull tab operation;
commits a Class A misdemeanor.".
(2) a game of chance operated in accordance with IC 4-32; or
(3) a pari-mutuel pull tab game operated in accordance with IC 4-35.

SECTION 19. IC 35-45-5-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. This chapter does not apply to the sale of pari-mutuel pull tab tickets authorized by IC 4-35.

Page 23, after line 36, begin a new paragraph and insert:

"SECTION 21. [EFFECTIVE JULY 1, 2005] (a) The Indiana gaming commission shall adopt the emergency rules required under IC 4-35-4-2, as added by this act, before January 1, 2006.
(b) This SECTION expires January 31, 2006.

SECTION 22. [EFFECTIVE JULY 1, 2005] (a) If the Indiana gaming commission determines that a permit holder has met the requirements of this act, the Indiana gaming commission shall adopt a resolution authorizing a permit holder to sell pari-mutuel pull tabs under IC 4-35, as added by this act. The Indiana gaming commission may exercise any power necessary to implement this act under a resolution authorized under this SECTION.
(b) This SECTION expires December 31, 2006."

Renumber all SECTIONS consecutively.

(Reference is to HB 1846 as printed February 25, 2005.)

GOODIN

Representative Whetstone rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into House Bill 1846 a bill pending before the House. The Speaker ruled the point was well taken and the motion was out of order.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Goodin’s amendment (1846–3) is a bill pending before this House under Rule 118.

PELATH RESKE

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

The question was, Shall the ruling of the Chair be sustained? Roll Call 224: yeas 51, nays 48. The ruling of the Chair was sustained.

The Speaker Pro Tempore yielded the gavel to the Speaker.

HOUSE MOTION

(Amendment 1846–5)

Mr. Speaker: I move that House Bill 1846 be amended to read as follows:

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

"SECTION 1. IC 4-33-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. "Gambling game" includes any of the following if approved by the commission as a wagering device:
(1) Baccarat.
(2) Twenty-one.
(3) Poker.
(4) Craps.
(5) Slot machine.
(6) Video games of chance.
(7) Roulette wheel.
(8) Klondike table.
(9) Punchboard.
(10) Faro layout.
(11) Keno layout.
(12) Numbers ticket.
(13) Pull tab.
(14) Jarc ticket.
(15) Pull tab.
(16) Big six.

The term does not include wagering on simulcast horse racing at a racetrack operated under IC 4-33-19.

SECTION 2. IC 4-33-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The commission shall do the following:
(1) Adopt rules that the commission determines necessary to protect or enhance the following:
(A) The credibility and integrity of gambling operations authorized by this article.
(B) The regulatory process provided in this article.
(2) Conduct all hearings concerning civil violations of this article.
(3) Provide for the establishment and collection of license fees and taxes imposed under this article.
(4) Except as provided in IC 4-33-6-12(f) and IC 4-33-6-5-5(e), deposit the license fees and taxes in the state gaming fund established by IC 4-33-13.
(5) Levy and collect penalties for noncriminal violations of this article.
(6) Deposit the penalties in the state gaming fund established by IC 4-33-13.
(7) Be present through the commission’s inspectors and agents during the time gambling operations are conducted on a riverboat to do the following:
(A) Certify the revenue received by a riverboat.
(B) Receive complaints from the public.
(C) Conduct other investigations into the conduct of the gambling games and the maintenance of the equipment that the commission considers necessary and proper.
(8) Adopt emergency rules under IC 4-22-2-37.1 if the commission determines that:
(A) The need for a rule is so immediate and substantial that rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 are inadequate to address the need; and
(B) An emergency rule is likely to address the need.
(9) Adopt rules to establish and implement a voluntary exclusion program that meets the requirements of subsection (c).
(b) The commission shall begin rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 to adopt an emergency rule adopted under subsection (a)(8) not later than thirty (30) days after the adoption of the emergency rule under subsection (a)(8).
(c) Rules adopted under subsection (a)(9) must provide the following:
(1) Except as provided by rule of the commission, a person who participates in the voluntary exclusion program agrees to refrain from entering a riverboat or other facility under the jurisdiction of the commission.
(2) That the name of a person participating in the program will be included on a list of persons excluded from all facilities under the jurisdiction of the commission.
(3) Except as provided by rule of the commission, a person who participates in the voluntary exclusion program may not petition the commission for readmittance to a facility under the jurisdiction of the commission.
(4) That the list of patrons entering the voluntary exclusion program and the personal information of the participants are confidential and may only be disseminated by the commission to the owner or operator of a facility under the jurisdiction of the commission for purposes of enforcement and to other entities, upon request by the participant and agreement by the commission.
(5) That an owner of a facility under the jurisdiction of the commission shall make all reasonable attempts as determined by the commission to cease all direct marketing efforts to a person participating in the program.
(6) That an owner of a facility under the jurisdiction of the commission may not cash the check of a person participating in the program or extend credit to the person in any manner. However, the voluntary exclusion program does not preclude an owner from seeking the payment of a debt accrued by a person before entering the program.

SECTION 3. IC 4-33-6-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) Unless the owner's license is terminated, expires, or is revoked, the owner's license may be renewed annually upon:
(1) the payment of a five thousand dollar ($5,000) annual renewal fee in the amount determined under subsection (e);
and
(2) a determination by the commission that the licensee satisfies the conditions of this article.

(b) A licensed owner shall undergo a complete investigation every three (3) years to determine that the licensed owner remains in compliance with this article.

(c) Notwithstanding subsection (b), the commission may investigate a licensed owner at any time the commission determines it is necessary to ensure that the licensee remains in compliance with this article.

(d) The licensed owner shall bear the cost of an investigation or reinvestigation of the licensed owner and any investigation resulting from a potential transfer of ownership.

(e) The commission shall impose an annual renewal fee as follows:
(1) The fee is five thousand dollars ($5,000) if the licensed owner pays the fee imposed under IC 4-33-19-7.
(2) The fee is two million dollars ($2,000,000) if the licensed owner does not pay the fee imposed under IC 4-33-19-7.

(f) The commission shall place in the state general fund the fee described in subsection (e). The treasurer of state shall transfer money in the special account to the auditor of state for deposit in a special account for a county capital improvement board of managers established under IC 36-10-9-3 on a monthly basis as the money is received.

SECTION 4. IC 4-33-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. "Racebook" means a riverboat facility at which pari-mutuel wagering is conducted on horse racing conducted at distant locations and viewable by televised simulcasting.

Sec. 2. A licensed owner or operating agent may apply to the commission for permission to operate a racebook at the riverboat operated by the licensed owner or operating agent. The commission may grant a licensed owner or operating agent permission to operate a racebook under this chapter if the licensed owner or operating agent:
(1) satisfies the requirements of this chapter;
(2) satisfies any the rules adopted by the commission concerning racebooks;
(3) pays the fee imposed under section 7 of this chapter.

Sec. 3. A racebook operated under this chapter must have:
(1) full dining service available; and
(2) multiple screens to enable each patron to view simulcast races.

Sec. 4. A licensed owner or operating agent that requests permission to operate a racebook must submit to the commission a racebook statement in a form prescribed by the commission. This form must include the following information:
(1) The estimated number of full-time and part-time jobs to be created at the proposed racebook.
(2) The type of seating to be provided, including areas in the proposed racebook where patrons may handicap races.
(3) The total seating capacity of the proposed satellite facility.
(4) The size and number of toilet facilities in the proposed racebook.
(5) The availability of food and beverages at the proposed racebook, including the number of tables and chairs, kitchen facilities, and concession stands.
(6) A description of the appearance of the proposed racebook, including lighting, decor, and plans for the exterior of the facility.
(7) The number of betting windows and stand-alone terminals to be provided at the proposed racebook.
(8) A description of the heating and air conditioning units, smoke removal equipment, and other climate control devices at the proposed racebook.
(9) The total square footage of the proposed racebook.
(10) Any other information required by the commission.

Sec. 5. A licensed owner or operating agent that is authorized to operate a racebook under this chapter may accept and transmit pari-mutuel wagers on horse racing at the racebook and may engage in all activities necessary to establish and operate appropriate satellite wagering facilities, including the following:
(1) Live simulcasts of horse racing.
(2) Construction or leasing of satellite wagering facilities.
(3) Sale of food and beverages.
(4) Advertising and promotion.
(5) All other related activities.

Sec. 6. (a) At the close of each day on which a licensed owner or operating agent conducts pari-mutuel wagering on simulcast horse racing at a racebook authorized under this chapter, the licensed owner or operating agent shall pay to the department of state revenue a tax on the total amount of money wagered on that day equal to two and one-half percent (2.5%) of the total amount of money wagered on simulcasts at the racebook.
(b) The payment of the tax under this section must be on a form prescribed by the department.
(c) The department may require payment under this section to
be made by electronic funds transfer (as defined in IC 4-8.1-2-7(e)).

(d) If the department requires taxes to be paid under this section through electronic funds transfer, the department may allow the licensed owner or operating agent to file a monthly report to reconcile the amount of taxes paid to the department.

Sec. 7. The commission shall impose an annual fee of two million dollars ($2,000,000) on each licensed owner or operating agent that operates a racebook under this chapter.

Sec. 8. (a) The department shall place in the state general fund the tax revenue collected under this chapter.

(b) The commissioner shall place in the state general fund the fees collected under this chapter.

Sec. 9. The treasurer of state shall transfer the taxes and fees deposited in the state general fund under this chapter to the auditor of state for deposit in a special account for a county that constructs a football stadium (as defined in IC 6-9-30-5). The auditor of state shall transfer money in the special account to the capital improvement board of managers established under IC 36-10-9-3 on a monthly basis as the money is received.

Page 9, line 11, after "(IC 4-33-13)," insert "the racebook wagering tax (IC 4-33-19-6);".

Page 9, line 30, delete "the professional sports team excise tax (IC 6-9-35);".

Page 11, delete lines 8 through 42.

Page 12, delete lines 1 through 31.

Page 15, delete lines 6 through 42.

Delete pages 16 through 17.

Page 18, delete lines 1 through 38.

Renumber all SECTIONS consecutively.

(Reference is to HB 1846 as printed February 25, 2005.)

DENBO

Representative Espich rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill.

After discussion, Representative Espich withdrew his point of order and Representative Denbo withdrew his motion to amend.

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

House Bill 1610

Representative Noe called down House Bill 1610 for second reading. The bill was read a second time by title.

HOUSE MOTION

(Amendment 1610–1)

Mr. Speaker: I move that House Bill 1610 be amended to read as follows:

Delete the title and insert the following:

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

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

"SECTION 1. IC 6-1.1-12-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) If the assessed value of residential real property described in subsection (d) is increased because the property has been rehabilitated, the owner may have deducted from the assessed value of the property an amount not to exceed the lesser of:

(1) the total increase in assessed value resulting from the rehabilitation; or

(2) eighteen thousand seven hundred twenty dollars ($18,720) per rehabilitated dwelling unit.

The owner is entitled to this deduction annually for a five (5) year period.

(b) For purposes of this section, the term "rehabilitation" means significant repairs, replacements, remodelings, additions, or other improvements to an existing structure which are intended to increase the livability, utility, safety, or value of the property, under rules adopted by the department of local government finance.

(c) For the purposes of this section, the term "owner" or "property owner" includes any person who has the legal obligation, or has otherwise assumed the obligation, to pay the real property taxes on the rehabilitated property.

(d) The deduction provided by this section applies only for the rehabilitation of residential real property which is located within this state and which is described in one (1) of the following classifications:

(1) a single family dwelling if before rehabilitation the assessed value (excluding any exemptions or deductions) of the improvements does not exceed thirty-seven thousand four hundred forty dollars ($37,440);

(2) a two (2) family dwelling if before rehabilitation the assessed value (excluding exemptions or deductions) of the improvements does not exceed forty-nine thousand nine hundred twenty dollars ($49,920); and

(3) a dwelling with more than two (2) family units if before rehabilitation the assessed value (excluding any exemptions or deductions) of the improvements does not exceed eighteen thousand seven hundred twenty dollars ($18,720) per dwelling unit.

(e) If an assessed value increase referred to in subsection (a) is attributable to both rehabilitation and:

(1) a general reassessment of real property under IC 6-1.1-4-4; or

(2) an annual adjustment of the assessed value of real property under IC 6-1.1-4-4.5:

the township assessor shall determine the amount of the increase attributable to rehabilitation to determine the deduction provided by this section. In making the determination under this subsection, the township assessor shall consider any information contained in the application under section 20(e) of this chapter.

SECTION 2. IC 6-1.1-12-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) Except as provided in subsection (b), the deduction from assessed value provided by section 18 of this chapter is first available in the year in which the increase in assessed value resulting from the rehabilitation occurs and the increase in assessed value resulting from the rehabilitation occurs and shall continue for each of the immediately following four (4) years in the sixth (6th) year, the county auditor shall add the amount of the deduction to the assessed value of the real property, which the property owner remains the owner of the property as of the assessment date.

(b) A property owner may:

(1) in a year after the year in which the increase in assessed value resulting from the rehabilitation occurs, obtain a deduction that:

(A) would otherwise first apply for the assessment date in 2005 or a later year; and

(B) was not made to the assessed value for any year; or

(2) obtain a deduction that:

(A) would otherwise have first applied for the assessment date in 2004 or an earlier year; and

(B) was not made to the assessed value for any year.

If the property owner obtains a deduction under this subsection, the deduction applies in the year for which the application is filed and continues for each of the immediately following four (4) years in which the property owner remains the owner of the property as of the assessment date.

(c) A general reassessment of real property which occurs within the five (5) year period of the deduction does not affect the amount of the deduction.

SECTION 3. IC 6-1.1-12-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) A property owner who desires to obtain the deduction provided by section 18 of this chapter must file a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the rehabilitated property is located. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. Except as provided in subsection (b) or (c), the application must be filed before May 10 of the year in which the addition to assessed value is made.

(b) If notice of the addition to assessed value for any year is not given to the property owner before April 10 of that year, the application required by this section subsection (a) may be filed not later than thirty (30) days after the date such notice is mailed to
the property owner at the address shown on the records of the township assessor.

(c) An application for a deduction referred to in section 19(b) of this chapter with respect to an assessment date must be filed before the May 10 that next follows the assessment date.

(1) The application required by this section shall contain the following information:

(a) A description of the property for which a deduction is claimed in sufficient detail to afford identification.

(b) Statements of the ownership of the property.

(c) The assessed value of the improvements on the property before rehabilitation.

(d) The number of dwelling units on the property.

(e) The number of dwelling units rehabilitated.

(f) The increase in assessed value resulting from the rehabilitation.

(g) The amount of deduction claimed.

(e) The application required by this section may contain information to assist the township assessor in making the determination under section 18(c) of this chapter, including:

1. Fair market value appraisals before and after the rehabilitation;

2. General market data on the extent to which particular types of rehabilitation add to the value of a dwelling.

2. A deduction application filed under this section is applicable for:

(a) the year for which the increase in assessed value occurs deduction application is filed; and for

(b) each of the immediately following four (4) years in which the property owner remains the owner of the property as of the assessment date;

without any additional application being filed.

(g) On verification of an application by the assessor of the township in which the property is located, the county auditor shall make the deduction.

SECTION 4. IC 6-1.1-12-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) If the assessed value of property is increased because the property has been rehabilitated and the owner has paid at least ten thousand dollars ($10,000) for the rehabilitation, the owner is entitled to have deducted from the assessed value of the property an amount equal to fifty percent (50%) of the increase in assessed value resulting from the rehabilitation. The owner is entitled to this deduction annually for a five (5) year period. However, the maximum deduction which a property owner may receive under this section for a particular year is:

1. One hundred twenty-four thousand eight hundred dollars ($124,800) for a single family dwelling unit;

2. Three hundred thousand dollars ($300,000) for any other type of property.

(b) For purposes of this section, the term "property" means a building or structure which was erected at least fifty (50) years before the date of application for the deduction provided by this section. The term "property" does not include land.

(c) For purposes of this section, the term "rehabilitation" means significant repairs, replacements, remodelings, additions, or other improvements to an existing structure that are intended to increase the livability, utility, safety, or value of the property, under rules adopted by the department of local government finance.

(d) If an assessed value increase referred to in subsection (a) is attributable to both rehabilitation and:

1. A general reassessment of real property under IC 6-1.1-4-4; or

2. An annual adjustment of the assessed value of real property under IC 6-1.1-4-4.5;

the township assessor shall determine the amount of the increase attributable to rehabilitation to determine the deduction provided by this section. In making the determination under this subsection, the township assessor shall consider any information contained in the application under section 24(e) of this chapter.

SECTION 5. IC 6-1.1-12-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) Except as provided in subsection (b), the deduction from assessed value provided by section 22 of this chapter is first available after the first assessment date following in the year in which the increase in assessed value resulting from the rehabilitation occurs and until continues for the taxpayer first time and payable in each of the immediately following five (5) years in the sixth (6th) year, the county auditor shall add the amount of the deduction to the assessed value of the property, which the property owner remains the owner of the property as of the assessment date.

(b) A property owner may:

1. In a year after the year in which the increase in assessed value resulting from the rehabilitation occurs, obtain a deduction that:

A) would otherwise first apply for the assessment date in 2005 or a later year; and

B) was not made to the assessed value for any year; or

2. Obtain a deduction that:

A) would otherwise have first applied for the assessment date in 2004 or an earlier year; and

B) was not made to the assessed value for any year.

If the property owner obtains a deduction under this subsection, the deduction applies in the year for which the application is filed and continues for each of the immediately following four (4) years in which the property owner remains the owner of the property as of the assessment date.

(c) Any general reassessment of real property which occurs within the five (5) year period of the deduction does not affect the amount of the deduction.

SECTION 6. IC 6-1.1-12-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) A property owner who desires to obtain the deduction provided by section 22 of this chapter must file a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the property is located. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. Except as provided in subsection (b) or (c), the application must be filed before May 10 of the year in which the addition to assessed value is made.

(b) If notice of the addition to assessed valuation value for any year is not given to the property owner before April 10 of that year, the application required by this section subsection (a) may be filed not later than thirty (30) days after the date such a notice is mailed to the property owner at the address shown on the records of the township assessor.

(c) An application for a deduction referred to in section 23(b) of this chapter with respect to an assessment date must be filed before the May 10 that next follows the assessment date.

(d) The application required by this section shall contain the following information:

1. The name of the property owner.

2. A description of the property for which a deduction is claimed in sufficient detail to afford identification.

3. The increase in the assessed value of improvements resulting from the rehabilitation.

4. The amount of deduction claimed.

(e) The application required by this section may contain information to assist the township assessor in making the determination under section 22(d) of this chapter, including:

1. Fair market value appraisals before and after the rehabilitation;

2. General market data on the extent to which particular types of rehabilitation add to the value of property.

(f) A deduction application filed under this section is applicable for:

1. The year for which the addition to assessed value is made deduction application is filed; and in

2. Each of the immediately following four (4) years in which the property owner remains the property owner as of the assessment date;

without any additional application being filed.

(g) On verification of the correctness of an application by the assessor of the township in which the property is located, the county auditor shall add the amount of the deduction to the assessed value of the property, which the property owner remains the owner of property as of assessment date. 

February 28, 2005
House Bill 1741

Representative Frizzell called down House Bill 1741 for second reading. The bill was read a second time by title.

Mr. Speaker: I move that House Bill 1741 be amended to read as follows:

Page 13, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 10. IC 35-47-7-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The:

(1) practitioner (as defined in IC 25-1-9-2) who initially treats a person for an injury that the practitioner has identified as resulting from fireworks or pyrotechnics; or

(2) administrator or the administrator's designee of the hospital or outpatient surgical center if a person initially is treated in a hospital or an outpatient surgical center for an injury that the administrator has identified as resulting from fireworks or pyrotechnics;

shall report the case to the state health data center of the state department of health not more than five (5) business days after the time the person is treated. The report may be made in writing on a form prescribed by the state department of health.

(b) A person submitting a report under subsection (a) shall make a reasonable attempt to include the following information:

(1) The name, address, and age of the injured person.

(2) The date and time of the injury and the location where the injury occurred.

(3) If the injured person was less than eighteen (18) years of age, whether an adult was present when the injury occurred.

(4) Whether the injured person consumed an alcoholic beverage within three (3) hours before the occurrence of the injury.

(5) A description of the firework or pyrotechnic that caused the injury.

(6) The nature and extent of the injury.

(c) A report made under this section is considered confidential for purposes of IC 5-14-3-4(a)(1).

(d) The state department of health shall compile the data collected under this section and submit in an electronic format under IC 5-14-6 a report of the compiled data to the legislative council not later than December 31, 2006.

(e) This section expires January 1, 2007.

SECTION 11. IC 35-47-7-6 IS REPEALED [EFFECTIVE UPON PASSAGE]."

Mr. Speaker: I move that House Bill 1741 be amended to read as follows:

Page 1, delete lines 1 through 9.
Page 1, strike lines 13 through 17.
Page 2, strike lines 1 through 11.
Page 2, line 12, strike "firework" means a small firework that is" and insert "fireworks" means consumer fireworks as defined in APA 87-1, Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, and included under NFPA 1124, Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2003 Edition, published by the National Fire Protection Association, 1 Batterymarch Park, PO Box 9101, Quincy, Massachusetts 02269.

"Display fireworks" means display fireworks as defined in APA 87-1, Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, and included under NFPA 1124, Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2003 Edition, published by the National Fire Protection Association, 1 Batterymarch Park, PO Box 9101, Quincy, Massachusetts 02269.

Page 2, strike lines 13 through 22.
Page 2, line 23, strike "to produce an audible effect.".
Page 2, line 23, delete "Consumer".
Page 2, line 23, strike "fireworks".
Page 2, strike lines 24 through 42.
Page 3, strike lines 1 through 14.
Page 3, line 15, strike ""Dipped stick" or "wire sparkler" means a".
Page 3, line 15, delete "consumer".
Page 3, strike lines 16 through 18.
Page 3, line 19, strike "item".
Page 3, line 19, strike "devices containing chlorate or perchlorate salts do not".
Page 3, strike lines 20 through 22.
Page 3, line 23, delete "consumer".
Page 3, line 23, strike "fireworks".
Page 3, strike lines 26 through 34.
Page 3, line 35, strike "deflagration, or detonation. Fireworks consist of".
Page 3, line 35, delete "consumer".
Page 3, strike lines 36 through 42.
Page 4, strike lines 1 through 5.
Page 4, delete lines 6 through 7, begin a new paragraph and insert:

""Fireworks" means consumer and display fireworks as defined in APA 87-1, Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, and included under NFPA 1124, Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2003 Edition, published by the National Fire Protection Association, 1 Batterymarch Park, PO Box 9101, Quincy, Massachusetts 02269.

Page 4, strike lines 8 through 27.
Page 4, between lines 39 and 40, begin a new paragraph and insert:

""Novelties" means novelties as defined in APA 87-1, Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, and included under NFPA 1124, Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2003 Edition, published by the National Fire Protection Association, 1 Batterymarch Park, PO Box 9101, Quincy, Massachusetts 02269."
Page 10, line 25, strike "($1,000)" and insert "($5,000)".
Page 10, line 25, delete "for".
Page 10, delete lines 26 through 29.
Page 11, line 9, strike "fireworks, novelties, and trick noisemakers" and insert "fireworks and novelties".
Page 11, line 16, strike "fireworks, novelties, or trick" and insert "fireworks and novelties".
Page 11, line 17, strike "noisemakers".
Page 11, line 27, delete "At the time of sale, a seller of consumer fireworks may not" and insert "A person may only use consumer fireworks from:
(1) June 15 through July 15 of a year; and
(2) December 15 of a year through January 15 of the following year.
(h) Fireworks may not be sold at retail from trucks, vans, or automobiles.".
Page 11, delete lines 28 through 36.
Page 11, line 38, delete "(a)".
Page 11, line 39, after "5(g)", insert "5(h)",
Page 11, line 39, strike "7."
Page 11, delete lines 41 through 42.
Page 12, delete lines 1 through 5, begin a new paragraph and insert:
"SECTION 5. IC 22-11-14-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A person shall not sell at retail or offer selling or offering consumer fireworks for sale at retail any fireworks, novelties, or trick noisemakers other than the following:
(1) Dipped sticks or wire sparklers: However, total pyrotechnic composition may not exceed one hundred (100) grams per item. Devices containing chlorate or perchlorate salts may not exceed five (5) grams in total composition per item.
(2) Cylindrical fountains.
(3) Cone fountains.
(4) Illuminating torches.
(5) Wheels.
(6) Ground spinners.
(7) Fitter sparklers.
(8) Smoke devices.
(9) Smoke devices.
(10) Trick noisemakers, which include:
(A) Party poppers.
(B) Booby traps.
(C) Snapners.
(D) Trick matches.
(E) Cigarette loads.
(F) Auto burglar alarms.
shall comply with the safety requirements and all other requirements of retail sales of consumer fireworks as provided in Chapter 7 of NFPA 1124, Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2003 Edition, published by the National Fire Protection Association, 1 Batterymarch Park, PO Box 9101, Quincy, Massachusetts 02269, unless the building or structure in which the sales take place was in existence prior to May 1, 2003.
(b) Nothing in this chapter shall be construed to prohibit a person from selling at retail, or offering for sale at retail, consumer fireworks at locations not prohibited by this chapter.
Page 12, delete lines 6 through 30.
Page 12, line 35, delete "."
Page 12, line 36, delete "(1)"
Page 12, run in lines 35 through 36.
Page 12, line 37, delete "; and" and insert "."
Page 12, delete line 38.
Page 13, between lines 22 and 23, begin a new paragraph and insert:
"SECTION 8. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 22-11-14-7; IC 22-11-14-10."
Renumber all SECTIONS consecutively.
(Reference is to HB 1741 as printed February 15, 2005.)
CROOKS
Upon request of Representatives Oxley and Whetstone, the
Speaker ordered the roll of the House to be called. Representative Turner was excused from voting. Roll Call 226: yeas 56, nays 41. Motion prevailed. The bill was ordered engrossed.

**House Bill 1279**
Representative Wolkins called down House Bill 1279 for second reading. The bill was read a second time by title.

**HOUSE MOTION**
(Amendment 1279–1)
Mr. Speaker: I move that House Bill 1279 be amended to read as follows:
Page 2, between lines 27 and 28, begin a new line block indented and insert:
"(6) include the date by which the plan referred to in subdivision (5) will be completed;".
Page 2, line 28, delete "(6)" and insert "(7)".
Page 2, line 30, delete "(7)" and insert "(8)".
Page 2, line 35, delete "(8)" and insert "(9)".
Page 2, line 38, delete "(9)" and insert "(10)".
Page 2, line 42, delete "(10)" and insert "(11)".
Page 3, line 35, delete "The" and insert "Subject to section 8(g) of this chapter, the".
Page 4, line 29, delete ";" and insert ", subject to section 8(g) of this chapter;".
Page 4, line 31, delete ";" and insert ", subject to section 8(g) of this chapter;".
Page 5, line 2, delete ";" and insert ", subject to section 8(g) of this chapter;".
Page 5, line 4, delete ";" and insert ", subject to section 8(g) of this chapter;".
Page 5, line 22, delete ";" and insert ", subject to section 8(g) of this chapter;".
Page 5, line 24, delete ";" and insert ", subject to section 8(g) of this chapter;".
Page 6, line 28, delete "limitation" and insert "limitations".
Page 6, line 28, delete "in subsection" and insert "in subsections".
Page 6, line 28, delete ";" and insert "and (g)".
Page 6, line 39, after "shall" insert ", subject to subsection (g)."
Page 7, between lines 9 and 10, begin a new paragraph and insert:
"(g) A reduction or removal of delinquent tax liability under subsection (f) applies until the county auditor makes a determination under this subsection. After the date referred to in section 2(6) of this chapter, the county auditor shall determine if the petitioner successfully completed the plan described in section 2(5) of this chapter by that date. If the county auditor determines that the petitioner completed the plan by that date, the reduction or removal of delinquent tax liability under subsection (f) becomes permanent. If the county auditor determines that the petitioner did not complete the plan by that date, the county auditor shall restore to the tax duplicate the delinquent taxes reduced or removed under subsection (f), along with interest in the amount that would have applied if the delinquent taxes had not been reduced or removed.".
(Reference is to HB 1279 as printed February 25, 2005.)

DVORAK

Motion prevailed. The bill was ordered engrossed.

**House Bill 1556**
Representative Becker called down House Bill 1556 for second reading. The bill was read a second time by title.

**HOUSE MOTION**
(Amendment 1556–2)
Mr. Speaker: I move that House Bill 1556 be amended to read as follows:
Page 2, delete lines 26 through 42, begin a new paragraph and insert:
"SECTION 3. IC 29-2-16-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. (a) A coroner may release and permit shall attempt to facilitate permission for the removal of a part from a body organs, tissues, or eyes within the coroner's custody, for transplantation, therapy, research or by providing information to or seeking information from the procurement organization that would assist the procurement organization in the evaluation of the viability for transplantation of any organ, tissue, or eye if all of the following occur:
(1) The coroner receives a request from a hospital, physician, surgeon, or procurement organization.
(2) The coroner makes a reasonable effort, taking into account the useful life of a part, to locate and examine the decedent's medical records and inform individuals listed in section 2(b) of this chapter of their option to make or object to making a gift under this chapter.
(3) The decision to allow the removal of organs, tissues, or eyes is based on a medical decision made by the pathologist or forensic pathologist. If the pathologist or forensic pathologist considers withholding one (1) or more organs or tissues of a potential donor, the pathologist or forensic pathologist:
(A) shall be present during the removal of the organs or tissues;
(B) may request a biopsy of the removed organs; and
(C) after viewing the removed organs or tissues and determining that removal may interfere with the death investigation, may prohibit removal and shall provide a written explanation to the procurement organization.
If it is determined that prior removal will interfere with the death investigation, the procurement organization may remove the tissues and eyes after the autopsy.
(4) The coroner does not know of a refusal or contrary indication by the decedent or an objection by an individual having priority to act as listed in section 2(b) of this chapter.
(5) The removal will be by:
(A) a physician licensed under IC 25.22.5; or
(B) in the case of removal of an eye or part of an eye, by an individual described in section 4(e) of this chapter; and under IC 26-2-14-19.
(6) The removal will not interfere with any autopsy or investigation.
(7) The removal will be in accordance with accepted medical standards.
(8) Cosmetic restoration will be done, if appropriate.
(9) If the pathologist or forensic pathologist is required to be present to examine the decedent before or during the removal of the parts, the procurement organization shall reimburse the pathologist or forensic pathologist for actual costs, but the amount may not exceed one thousand dollars ($1,000). The county is not responsible for any costs incurred by the pathologist, forensic pathologist, or procurement organization under this subdivision.
(10) If requested by the coroner, pathologist, or forensic pathologist, the procurement organization shall provide a surgeon's report detailing the condition of the organs and the relationship of the organs to the cause of death, if any.
(b) If the body is not within the custody of the coroner, the medical examiner, pathologist or forensic pathologist may release and permit the removal of any part from a body in the medical examiner's custody for transplantation or therapy if the requirements of subsection (a) are met.
(c) A person under this section who releases or permits the removal of a part shall maintain a permanent record of the name of the decedent, the individual making the request, the date and purpose of the request, the body part requested, and the person to whom it was released.

Delete page 3.
Page 4, delete line 1.
(Reference is to HB 1556 as printed February 18, 2005.)

BECKER

Motion prevailed. The bill was ordered engrossed.

**House Bill 1441**
Representative T. Brown called down House Bill 1441 for second reading. The bill was read a second time by title.
HOUSE MOTION  
(Amendment 1441–1)

Mr. Speaker: I move that House Bill 1441 be amended to read as follows:

Page 1, line 7, delete "program," and insert "program:

(1) the office shall develop a procedure and provide the recipient's risk based managed care provider with information concerning the recipient's prescription drug utilization for the risk based managed care provider's case management program; and

(2)"

(Reference is to HB 1441 as printed February 23, 2005.)

C. BROWN

Motion prevailed. The bill was ordered engrossed.

House Bill 1406

Representative Whetstone called down House Bill 1406 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 1406–3)

Mr. Speaker: I move that House Bill 1406 be amended to read as follows:

Page 1, line 14, strike "in a county containing a".  
Page 1, line 15, strike "consolidated city,".  
Page 2, line 16, strike "may" and insert "shall".  
Page 2, delete lines 24 through 36, begin a new paragraph and insert:

"SECTION 3. IC 7.1-3-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. Publication of Notice: (a) Whenever, under the provisions of this title, publication of notice of application for a permit is required, the publication shall be made in two (2) newspapers of opposite political faith published in the city; town or township one (1) newspaper of general circulation published in the county where the permit is to be in effect.

(b) If there is only one (1) newspaper published in the city or town; the notice shall be published in that newspaper and in another newspaper of opposite political faith published in the county; if there is one; and if not; then in any newspaper of general circulation published in the county.

(c) If there is no newspaper published in the city or town where the permit is to be in effect; then the publication shall be made in two (2) newspapers published in the city or town nearest to the city or town where the permit is to be in effect.

(d) (b) Publication required by this section may be made in any newspaper of general circulation published one (1) or more times each week.

(e) (c) The rates which shall be paid for the advertising of a notice required under this title shall be those required to be paid in case of other notices published for or on behalf of the state.".

Page 3, delete lines 6 through 24.  
Page 4, delete lines 36 through 42.  
Page 5, delete lines 1 through 15.  
Page 6, line 38, delete "ten" and insert "five".  
Page 6, line 39, delete "($10)" and insert "($5)".

Page 7, delete lines 35 through 42, begin a new paragraph and insert:

"SECTION 10. IC 7.1-3-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. Publication of Notice of Investigation: The commission shall cause two (2) notices one (1) notice of the pending investigation to be published in a newspaper in accordance with the provisions of IC 47-7-1.3-1-18. The publication of notices the notice shall be one (1) calendar week apart and the first publication shall be at least fifteen (15) thirty (30) days before the investigation.".

Page 8, delete lines 1 through 6.  
Page 8, line 9, delete "chapter and" and insert "chapter,".  
Page 8, line 10, strike "IC 7.1-3-16.5-2(c)".  
Page 8, line 11, strike "or".  
Page 8, line 12, strike "a supplemental retailer's permit".  
Page 9, delete lines 31 through 42, begin a new paragraph and insert:

"(g) The commission may issue a three-way permit for the sale of alcoholic beverages for on premises consumption to an applicant who will locate as the proprietor, owner, or lessee, or both, of a restaurant within an economic development area under IC 36-7-14 in:

(1) a town with a population of more than twenty thousand (20,000); or

(2) a city with a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand four hundred (27,400);

located in a county having a population of more than ninety thousand (90,000) but less than one hundred thousand (100,000). The commission may issue not more than five (5) licenses under this section to premises within each municipality. The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted at any time as determined by the commission. Notwithstanding any other law, the minimum bid for an initial license under this subsection is thirty-five thousand dollars ($35,000), and the renewal fee for a license under this subsection is one thousand three hundred fifty dollars ($1,350). Before the district expires, a permit issued under this subsection may not be transferred. After the district expires, a permit issued under this subsection may be renewed, and the ownership of the permit may be transferred, but the permit may not be transferred from the permit premises.".

Page 11, line 27, delete "of termination".  
Page 13, line 4, delete "from".  
Page 13, line 5, delete "the successor".  
Page 13, delete lines 25 through 31, begin a new paragraph and insert:

"SECTION 15. IC 7.1-4-4.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The following biennial license fee is imposed on an employee's permit:

(1) Free Fifteen dollars ($5) ($15) if the permit is used only to perform volunteer service that benefits a nonprofit organization.

(2) Thirty dollars ($30) if subdivision (1) does not apply.

The term of a biennial employee's license is two (2) years.".

Page 13, delete lines 37 through 42, begin a new paragraph and insert:

"SECTION 17. IC 7.1-4-4.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) This section applies to the following seasonal or annual biennial permits:

(1) Beer retailer's permit.

(2) Liquor retailer's permit.

(3) Wine retailer's permit.

(4) One-way permit.

(5) Two-way permit.

(6) Three-way permit.

(7) Airplane beer permit.

(8) Airplane liquor permit.

(9) Airplane wine permit.

(10) Boat beer permit.

(11) Boat liquor permit.

(12) Boat wine permit.

(13) Dining car beer permit.

(14) Dining car liquor permit.

(15) Dining car wine permit.

(16) Hotel seasonal permit.

(17) Supplemental retailer's permit.

(b) The commission shall charge a single fee for the issuance of any combination of retailer's permits issued for the same location or conveyance. Except as provided in sections 10 and 11 of this chapter, the fee is equal to the sum of the amount determined under subsection (c) and the amount determined under subsection (d).

(c) An annual permit fee in the following amount is imposed on a retailer:

(1) Two hundred fifty Three hundred seventy-five dollars ($250) ($375), if the retailer serves only beer or only wine.

(2) Five hundred Six hundred twenty-five dollars ($500) ($625), if the retailer sells both beer and wine but no liquor.

(3) Seven hundred fifty Eight hundred seventy-five dollars ($750) ($875), if the retailer serves beer, wine, and liquor.

February 28, 2005
(d) An additional annual fee in the following amount is imposed on a retailer

(1) Two hundred fifty dollars ($250); if the retailer under the authority of IC 7.1-3-16.5 sells food and any combination of beer, wine, or liquor on Sunday.
(2) One thousand five hundred dollars ($1,500) of five hundred dollars ($500) if the retailer who is not under the authority of IC 7.1-3-16.5 sells any combination of beer, wine, or liquor on Sunday.

SECTION 18. IC 7.1-4-4.1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) This section applies to the following biennial permits:

(1) Beer dealer's permit.
(2) Liquor dealer's permit.
(3) Malt dealer's permit.
(4) Wine dealer's permit.

(b) The commission shall charge a single fee for the issuance of any combination of dealers' permits issued for the same location. The fee is equal to the sum of the amount determined under subsection (c).

(c) An annual permit fee in the following amount is imposed on a dealer:

(1) Two hundred fifty Three hundred seventy-five dollars ($250; $375), if the dealer sells only beer, only liquor, or only wine.
(2) Five hundred Six hundred twenty-five dollars ($500; $625), if the dealer sells:
   (A) Both beer and wine but no liquor;
   (B) Both wine and liquor but no beer; or
   (C) Both beer and liquor but no wine.
(3) Seven hundred eighty-five Eight hundred thirty-five dollars ($785; $835), if the dealer sells beer, wine, and liquor."

Delete page 14.
Page 15, delete lines 1 through 26.
Page 15, line 33, delete "forty percent (40%)" and insert "thirty-four percent (34%)".
Page 15, line 36 delete "sixty percent (60%)" and insert "sixty-six percent (66%)".
Page 16, delete lines 4 through 10.
Page 16, line 12, strike "Fees".
Page 16, line 19, delete "IC 7.1-3-20-16" and insert "IC 7.1-3-20-16(g)".
Page 17, delete lines 2 through 14.
Page 17, line 19, delete "IC 7.1-3-20-16" and insert "IC 7.1-3-20-16(g)".
Page 19, line 26, delete "IC 7.1-3-1-18;".
Page 19, line 26, delete "IC 7.1-3-16.5-4; and insert "IC 7.1-3-16.5-4.".
Page 19, delete line 27.

Renumber all SECTIONS consecutively.

(Reference is to HB 1406 as printed February 22, 2005.)

Respectfully submitted,

PIERCE

OTHER BUSINESS ON THE SPEAKER'S TABLE

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Bills 127, 242, 245, 263, 315, 335, 381, 382, 411, 424, 428, 467, 472, 474, 482, 483, 487, 496, 498, 508, 523, 539, 572, 590, and 634 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

HOUSE MOTION

Mr. Speaker: I move that the bill adjourn, we adjourn until Tuesday, March 1, 2005 at 9:00 a.m.

FRIEND

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Klinker be added as coauthor of House Bill 1145.

AVERY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Austin be added as coauthor of House Bill 1367.

HOFFMAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Kuzman be added as coauthor of House Bill 1374.

WALORSKI

Motion prevailed.
Mr. Speaker: I move that Representatives Cherry and Aguilera be added as coauthors of House Bill 1422.

Motion prevailed.

Mr. Speaker: I move that Representative T. Brown be added as coauthor of House Bill 1428.

Motion prevailed.

Mr. Speaker: I move that Representative Thomas be added as coauthor of House Bill 1429.

Motion prevailed.

Mr. Speaker: I move that Representative Micon be added as coauthor of House Bill 1434.

Motion prevailed.

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representative T. Adams be added as coauthor of House Bill 1530.

Motion prevailed.

Mr. Speaker: I move that Representative Porter be added as coauthor of House Bill 1669.

Motion prevailed.

Mr. Speaker: I move that Representatives Leonard and T. Adams be added as coauthors of House Bill 1828.

Motion prevailed.

Mr. Speaker: I move that Representatives Aguilera and Welch be added as coauthors of House Bill 1839.

Motion prevailed.

On the motion of Representative Ripley, the House adjourned at 11:59 p.m., this twenty-eighth day of February, 2005, until Tuesday, March 1, 2005, at 9:00 a.m.