

**CITIZENS ACTION COALITION BILL REPORT**  
**2006 Session of the Indiana General Assembly**  
**Final Report, March 17, 2006**

As midnight fast approached on March 14, 2006, the legislature adjourned “sine die”, marking the end of the 2006 session of the Indiana General Assembly. Although this was a short (non-budget) session, an abundance of substantive issues were in play from beginning to end, making this one of the more action-packed short sessions in recent history.

**HEA 1279 (Telecommunications)** occupied a large amount of our time at the Statehouse. This massive telecommunications deregulation bill (and its counterpart in the Senate, **SB 245**) was muscled through the legislative process despite our efforts, in coalition with AARP Indiana and a number of other consumer and media groups, to carve out protections for individual and small business ratepayers from unjustifiable rate increases and service quality decreases resulting from the elimination of Indiana Utility Regulatory Commission (IURC) jurisdiction over basic telecommunications service. Misrepresentation abounded as the bills’ main authors and sponsors, as well as numerous telecommunications industry lobbyists packing the hallways, argued that expansion of broadband was dependent on deregulation of basic telecommunications service.

Our efforts to dispel this and other myths began with the distribution of a 35 page White Paper citing the IURC, Office of Utility Consumer Counselor (OUCC), other national advocacy groups and AT&T’s own reports and statements in support of our argument that HB 1279 and SB 245 were unnecessary and, at the very least, the IURC must retain jurisdiction over basic telecommunications service. We followed up with testimony at hearings on each bill, daily dialogue with legislators and distribution of written commentary at key points along the way. We also generated regular action alerts and mobilized thousands of grass roots advocates to contact their legislators with specific concerns about both bills.

Despite these efforts, legislators voted in large numbers to support final passage of HEA 1279, signifying a willingness to support the interests of mega-monopoly telecommunications companies like AT&T and Verizon over those of their constituents. Only days after the House voted to concur on Senate amendments to HB 1279, AT&T announced its \$67 billion acquisition of BellSouth. Meanwhile, HEA 1279 was signed by the Governor on 3/14/06, setting the stage for rate increases that will be available to finance the acquisition while up to 10,000 more workers are laid off, with absolutely no provisions requiring any investment in Indiana.

**HEA 1315 (Video Service Franchises)** became a “trailer bill” to HEA 1279 in the final day of session, providing additional proof of a pattern and practice by the Indiana General Assembly of placing business interests above the interests of consumers. Until 3/14/06 HB 1315 contained provisions requiring all nursing homes to have automatic fire sprinkler systems installed before July, 2011 and requiring the Department of Health to publish the types of automatic fire sprinkler systems and smoke detectors in

nursing homes in its consumer guides. On 3/14/06 HB 1315 was stripped of this language, and language was inserted ensuring that video service (cable) providers who opted to participate in the state video franchise program created in HEA 1279 would not be bound by any obligations to consumers or local units of government under previously negotiated local franchise agreements.

Despite the fact that no Senate conferees had been appointed and no quorum was present when HB 1315 was heard in conference committee on 3/14/06 (CAC testified against HB 1315 at the hearing), hours later a conference committee report signed by all four conferees, including newly discovered Senate conferees Hershman and Hume, miraculously appeared, was adopted in the Rules committees in both chambers and passed the House and Senate by wide margins, sending HEA on its way to the Governor for signature. Meanwhile, key legislation requiring fire sprinkler systems in nursing homes and public disclosure of fire sprinkler systems and smoke detectors in nursing homes is dead, despite countless hours of dedication by consumer advocates, spanning several years, to reach agreement with nursing home industry representatives.

**HEA 1001**, containing various property tax relief measures, also ranked high on the list of substantive issues debated in this year's legislative session. Passing in the final hours of the legislative session, HB 1001 will provide homeowners a roughly 4% reduction in property taxes this year, and roughly 6% in reduced property taxes in 2007.

Language from former **HB 1081**, exempting sales tax from home energy bills for persons who qualify under the Low Income Home Energy Assistance Program (LIHEAP), remained in HB 1001 upon final passage. The sales tax exemption applies only to LIHEAP assistance between 6/30/06 and 6/30/07, essentially covering next winter's heating bills. Nevertheless, the exemption provides additional funds to assist more eligible households with their heating expenses.

**HR 23** was adopted by voice vote in the House on 3/6/06. HR 23 urges the Legislative Council to assign the issue of renewable energy development to the Regulatory Flexibility Committee. HR 23 was introduced following a hearing on HB 1379 (Renewable Energy Resources) on 1/25/06 in the House Utilities and Energy Committee. The hearing offered evidence of growing support for the requirement that electricity suppliers begin developing and increasing reliance on renewable energy resources for the generation of electricity. CAC helped to secure a hearing on HB 1379, organized testimony and testified in support of the bill at the hearing.

Renewable energy resources include wind, solar photovoltaic cells and panels, fuel cells, hydropower from existing resources, organic waste biomass, dedicated crops grown for energy production, methane recovered from landfills, heat and water without combustion and other similar sources. HB 1379 would have required electricity suppliers to supply electricity generated by renewable energy resources to Indiana customers as a percentage of the total electricity supplied by the electricity supplier, with at least 10% of energy coming from renewable energy resources by the year 2016.

At the hearing, utility companies raised concerns about mandates. An alternative plan, providing tax incentives for producers of renewable energy, was also discussed. Developers argued that tax incentives, without a corresponding requirement allowing interconnection to utility power grids, are insufficient to stimulate investment in renewable energy resources. Representative Lehe, the bill's author, agreed to introduce a resolution calling for further study of these issues in lieu of advancing HB 1379 further.

The Regulatory Flexibility Committee is one of many study committees that meets on a periodic basis between regular sessions of the Indiana General Assembly. HR 23 recommends that the committee study the potential for various renewable energy resources to be used as a fuel source or to generate electricity in a manner that is economically and environmentally sound, taking various factors into consideration. Efforts to secure hearings this summer on a renewable energy standard are underway.

**HEA 1008**, the Governor's Major Moves initiative, occupied center stage throughout the legislative process, ultimately passing by a narrow margin in the House (51-48) along party lines, with the exception of Republican Representative David Wolkins (District 18, Winona Lake), who broke ranks to vote with House Democrats against the bill. HB 1008 passed more easily in the Republican-dominated Senate by a vote of 31-19, with two Democrats joining twenty-nine Republicans in favor of the bill, and four Republicans joining fifteen Democrats against it.

Having passed both the House and Senate, HB 1008 becomes House Enrolled Act (HEA) 1008, where it is signed by the Speaker of the House and the President of the Senate and forwarded to the Governor for signature into law. Another major policy issue, daylight saving time, was not put into play despite the filing of several bills on the subject at the beginning of the session, leaving last year's decision to place much of Indiana in the Eastern time zone for observance of daylight saving time undisturbed.

Bills that CAC tracked during the 2006 session, including those that died along the way, are listed according to four distinct categories below. A digest and last action report is included for each bill.

If you need additional information for any of the bills listed in this report or other information regarding the 2006 session of the Indiana General Assembly (IGA), please visit the IGA's official website at [www.in.gov/legislative](http://www.in.gov/legislative).

Respectfully submitted,

Paul Chase, J.D.  
Government Relations Liaison

## I. CONSUMER/REGULATORY ISSUES

- **HB1010** *Eminent domain.* Requires a condemnor, before proceeding to acquire property by use of eminent domain, to: (1) establish a proposed purchase price; (2) provide the owner with an appraisal or other evidence used to establish the proposed purchase price; and (3) conduct a good faith negotiation with the owner of the property. Extends time periods that apply to certain eminent domain procedures. Requires a condemnor, except the department of transportation (department), certain utilities, and certain other persons, to proceed to acquire the property by use of eminent domain not more than two years after the condemnor submits a written acquisition offer to the owner of the property. Requires the department, certain utilities, and certain other persons to initiate eminent domain proceedings not more than six years after the department, utility, or other person submits a written acquisition offer to the property owner. Provides that a property owner may receive litigation expenses, including reasonable attorney's fees, in an amount not to exceed the lesser of: (1) \$25,000; or (2) the fair market value of the property; if the property owner is awarded greater compensation at trial than was offered in the condemnor's last settlement offer. Specifies that certain persons authorized to exercise eminent domain may do so only to accomplish the essential delivery of services. Provides that if a condemnor fails to: (1) take possession of property the condemnor acquired through the use of eminent domain; and (2) adapt the property for the purpose for which it was acquired; not later than six years after the payment of the award or judgment for damages occurs, the condemnor forfeits all rights in the property as if the procedure to take the property had not begun. Establishes procedures for using eminent domain to transfer ownership or control of real property between private persons for uses that are not public uses, including: (1) limiting the use of eminent domain only to acquire certain types of property; (2) requiring that the acquisition of the property will accomplish more than only increasing the property tax base of a government entity; (3) requiring mediation under certain circumstances; (4) requiring the payment of more than the fair market value for certain types of property; (5) requiring the condemnor to pay the attorney's fees of certain owners; and (6) requiring the payment of certain other damages, if applicable, including business losses. Prohibits a state agency or political subdivision from requiring that a lawfully erected sign be removed or altered as a condition of issuing a permit, license, variance, or other order concerning land use or development unless the sign owner is compensated or has waived compensation in writing. Prohibits a privately owned cemetery from exercising eminent domain. Prohibits libraries from exercising eminent domain unless a specified legislative body in the library district adopts a resolution specifically approving the use of eminent domain for a particular purpose. Makes other changes and conforming amendments.

Author: David Alan Wolkins

Sponsor: Richard D. Bray

03/14/2006 S: Conf Report Adopted(49-0) S

- **HB1261** *Housing and community development authority.* Changes references to the Indiana housing finance authority to the Indiana housing and community development authority. Specifies additional powers of the authority. Renames the low income housing trust fund the affordable housing and community development

fund. Expands the uses of the fund. Changes the membership and name of the advisory committee. Repeals the law concerning the Indiana affordable housing fund. Limits the neighborhood assistance tax credit to persons who contribute to neighborhood organizations that provide neighborhood assistance. (Current law permits tax credits for persons who engage in providing assistance.) Changes many definitions in the neighborhood assistance tax credit to specifically include services provided to economically disadvantaged households that may be located outside economically disadvantaged areas. Moves the following programs from the family and social services administration to the lieutenant governor: (1) The housing assistance act of 1937. (2) Community services block grant. (3) Home energy assistance programs; (4) Weatherization assistance. (5) Food and nutrition programs. (6) Migrant and farm worker programs. (7) Emergency shelter grant programs. (8) Shelter plus care programs.

Author: Woody Burton

Sponsor: Teresa S. Lubbers

03/08/2006 H: Ret 1st House Concur(85-5)

- **SB0022** *Pipeline safety.*

Provides that the pipeline safety laws apply to hazardous liquids and carbon dioxide fluid. Increases the maximum civil penalties that may be imposed under the pipeline safety laws. Provides that certain information concerning pipelines is confidential for purposes of the law concerning access to public records.

Author: Beverly J. Gard

Sponsor: David Alan Wolkins

03/15/2006 S: Received By Governor

- **SB0072** *IURC proceedings.*

Permits the utility regulatory commission (IURC) to deliberate in executive session on a proposed IURC order under certain circumstances.

Author: David C. Long

Sponsor: Randy L. Borrer

03/14/2006 S: Governor Signed

- **SB0260** *Taxation.*

If an assessing official discovers an overreported personal property assessment, requires the official to correct the assessment. Permits a personal property taxpayer to make an exemption claim up to 30 days after the return due date. Provides that the investment deduction for personal property does not apply to certain personal property. Allows a county to impose a separate property tax levy that is subject to the county's levy limits to compensate a county hospital for providing emergency medical services. Provides that information regarding certain property tax benefits available to owners of single family residential property must be included in the instructions for completing the sales disclosure form used in transfers of real property interests. Exempts delinquent tax collections from deposit in the excess levy fund. Reduces the amount of assessed value growth that qualifies a civil taxing unit for an excessive levy appeal. Authorizes an excessive levy appeal for certain townships to pay the costs of providing emergency medical services by paramedics. Permits a county auditor to establish a special

nonreverting fund to receive additional property taxes attributable to a contract for the discovery of property that has been undervalued or omitted from assessment. Changes responsibilities for distribution of certain notices of decision by the Indiana board of tax review (IBTR). Adjusts the procedure for a public utility company to appeal the distributable property assessment of the department of local government finance (DLGF) to the IBTR. Changes the annual deadline for filing for various property tax benefits for individuals from May 10 to June 10. States requirements for maintaining a class action suit against the DLGF. Permits property tax rates to be calculated using a reduced assessed value for property to reflect the effects of pending property tax appeals. Allows the county auditor to amend assessed valuation information provided to the DLGF and political subdivisions that is used to set property tax rates. Allows a taxpayer that initiated an appeal to the DLGF of a political subdivision's budget, rate, and levy to seek judicial review if the DLGF fails to act on the appeal in a timely manner. Revises the formula for determining a civil taxing unit's maximum permissible levy to permit banking of unused levy capacity with restriction on recapture. Requires the DLGF to recommend amendments to levy banking and recapture provisions. Allows a designee of the commissioner of the DLGF to attest copies of certain documents. Provides that the DLGF rules for assessment of real property are not required to include instructions for determining depreciation or reproduction cost. Specifies when returns, other documents, and property tax payments are considered to be received for purposes of property tax statutes containing filing or payment deadlines. For depreciable personal property eligible for tax abatement and subject to the 30% minimum valuation limitation, specifies the amount of assessed value used to compute the deduction. Provides that in an appeal from a decision of a local assessing official or a property tax assessment board of appeals, the IBTR may subpoena witnesses and documents. (Current law gives the IBTR this power with respect to appeals from DLGF decisions.) Provides that if the IBTR fails to render a decision in an appeal from an action of the DLGF, the entity that initiated the appeal has the option of waiting for a IBTR decision or requesting judicial review. Specifies when a lot or tract held for sale in the ordinary course of trade or business may be reassessed for property tax purposes. Provides that money in a property tax reassessment fund may not be transferred to any other fund. Provides that certain equipment installed in an economic revitalization area or a maritime opportunity district after being used in Indiana by a person other than the tax abatement applicant is eligible for tax abatement. Requires an annual adjustment of the maximum rate of a school capital projects fund. Allows local government officers to hire a private attorney in proceedings before the Indiana tax court, subject to approval of the attorney general. Allows a redevelopment commission to establish a program for housing and to employ tax increment financing with respect to the program. Allows tax abatement for prior years for the operator of a grey iron foundry in Grant County that was denied for those years. Allows a property tax exemption for prior years for a fraternity at Butler University that was denied for those years. Allows an exemption for prior years for a soccer facility. Provides that a taxpayer is entitled to an enterprise zone investment deduction in a military installation designated as an enterprise zone only if the deduction is approved by the military base reuse authority board. Increases the maximum levy for certain fire protection districts that have experienced high assessed value growth. Authorizes a refund of sales tax paid in prior years for a youth baseball organization. Allows a property tax exemption for a prior year for the

Madame Walker Theater Center. Establishes increased maximum levies for the Dubois County Contractual Library and the Jasper Public Library. Allows a water service utility to correct a prior year's utility property tax return. Makes a technical correction to SEA 71-2006 concerning property tax payments by a storm water district to a municipality. Allows a designating body to grant a property tax abatement deduction for not more than two years to the owner of a building that is located in an economic revitalization area and has been vacant for at least one year, if the owner or a tenant of the owner occupies the building and uses the building for commercial or industrial purposes. Provides that the base assessed value of property in a tax increment financing allocation area is adjusted each time an annual adjustment is made. Allows the DLGF to adopt temporary rules to implement the investment deduction. Permits a designating body to waive errors in tax abatement forms and noncompliance with filing dates.

Author: Howard 'Luke' Kenley

Sponsor: Jeffrey K. Espich

03/14/2006 S: Conf Report Adopted(50-0) S

### **BILLS THAT DIED:**

**- HB1045** *IURC merger and fining authority.*

Provides that a merger, consolidation, reorganization, or stock transaction involving an energy company may not occur without the approval of the utility regulatory commission (IURC) if the transaction will cause more than 51% of the company's voting stock to be held by different interests. Requires the IURC to approve the transaction unless the resulting entity will lack the capability to provide adequate and reliable service. Allows the IURC to impose a civil penalty of up to \$5,000 if a public utility providing energy services violates any: (1) utility law; or (2) rate or service requirement imposed by the IURC. Allows the IURC to impose an additional penalty of up to \$10,000 if the violation demonstrates a willful disregard by the public utility of its duty to remedy the violation. Specifies that a suit to recover a penalty imposed by the IURC shall be brought by the attorney general.

Author: L. Jack Lutz

01/04/2006 H: 1st Reading Assigned Utilities And Energy

**- HB1054** *Revocation of assigned electric service area.*

Provides that the utility regulatory commission may revoke the sole right of an electricity supplier to furnish retail electric service to a designated area if: (1) the electricity supplier furnishes service to a town; (2) a different electricity supplier furnishes service to areas adjacent to the town; and (3) a majority of electricity consumers in the town petition the commission to determine that the electricity supplier that furnishes service to the town does not have the sole right to do so.

Author: Joe Micon

01/04/2006 H: 1st Reading Assigned Utilities And Energy

- **HB1079** *Cost benefit analysis of outsourcing.*

Requires a state agency to do a cost benefit analysis before entering into a contract for services. Requires the department of administration to compile a report on the cost benefit analysis for each contract.

Author: Russell L. Stilwell

01/05/2006 H: 1st Reading Assigned Employment And Labor

- **HB1147** *Affiliated interests of regulated utilities.*

Gives the utility regulatory commission (IURC) broader access to records of an affiliate of an electric or a gas utility. Provides that in a case for a fuel or gas cost charge, the utility consumer counselor or any party or intervenor may examine the records of an affiliate from which a utility buys fuel or gas to determine the reasonableness of the cost. Provides that as part of the regular examination of a utility's records, the utility consumer counselor may also examine the records of an affiliate from which the utility buys fuel or gas to determine the reasonableness of the cost of the fuel or gas. Allows the IURC, in ascribing revenue to a utility seeking a fuel or gas cost charge, to ignore any corporate distinction between the utility and an affiliate selling fuel or gas to the utility. Provides that a contract between a utility and an affiliate is not effective unless the IURC finds that the contract is in the public interest and the result of arm's length negotiations. Allows the IURC to adopt rules concerning certain transactions between utilities and affiliates. Prohibits certain public utilities from providing certain subsidies to affiliates or unregulated activities.

Author: Scott Pelath

01/05/2006 H: 1st Reading Assigned Utilities And Energy

- **HB1194** *Notice of underground storage tank leaks.*

Requires notice to affected or potentially affected property owners of a release of a contaminant from an underground storage tank system.

Author: John Ulmer

01/26/2006 H: **Committee Sched** 10:00 a.m. Room 156-B Environmental Affairs

- **HB1215** *Review privatization of state functions.*

Creates the privatization review committee (committee). Requires a state agency to develop a privatization plan before privatizing any state program. Requires a state agency to hold a hearing on the plan and report the results of the hearing to the public and the committee. Requires the committee to review a privatization plan before implementation and to make advisory recommendations to the governor. Provides that a privatization contract may not extend beyond June 30 of a year in which a governor next takes office.

Author: Joe Micon

01/10/2006 H: 1st Reading Assigned Employment And Labor

- **HB1225** *Net metering and interconnection rules.*

Requires the utility regulatory commission (IURC) to adopt emergency rules amending the IURC's net metering and interconnection rules for electric utilities. Requires that the amended rules must: (1) make net metering available to specified customer classes; (2)



allow a generating facility with a nameplate capacity of five megawatts or less to interconnect to the distribution facility of an electric utility; (3) allow a net metering customer to interconnect a generating facility that makes use of specified technologies; and (4) allow an electric utility to limit the total nameplate capacity of all generating facilities interconnected with its distribution system to 2% of the utility's most recent summer peak load. Provides that the existing rules are void to the extent they do not comply with the requirements for the amended rules. Requires the IURC to report to the regulatory flexibility committee on the IURC's progress in adopting the amended rules.

Author: Ryan Dvorak

01/10/2006 H: 1st Reading Assigned Utilities And Energy

- **HB1242** *Growth and development study committee.*

Establishes a two year growth and development committee made up of members of the general assembly. Directs the committee to examine incentives for growth and development and to study the impact of growth and development on taxes, transportation funding, energy policy, and the environment.

Author: Ryan Dvorak

01/10/2006 H: 1st Reading Assigned Local Government

- **HJR0004** *Eminent domain.*

Provides that the power of eminent domain may be used only for certain specified purposes. Provides that eminent domain may not be used to increase the tax revenue of the state or a political subdivision. Provides that the state, a political subdivision, or an instrumentality of the state or of a political subdivision may not transfer real property acquired through the power of eminent domain to a private person for purposes of economic development. This proposed amendment has not been previously agreed to by a general assembly.

Author: P. Eric Turner

01/12/2006 H: 1st Reading Assigned Judiciary

- **SB0074** *Acquisition of utility property.*

Provides that a municipality or a municipally owned utility may not purchase the property of a utility company that provides water or sewer service (including a regional sewer and water district) unless the utility regulatory commission (IURC): (1) finds that the utility company has continued violations of the IURC's orders or the law regulating the utility company after the IURC has ordered compliance; or (2) finds after a review that the utility company has severe deficiencies that the utility company has failed to remedy. Specifies that the statute prescribing the procedures for such findings by the IURC exclusively governs the acquisition of a water or sewer utility. Provides that if a municipality or a municipally owned utility has initiated proceedings under another statute before the effective date of this statute, the utility to be acquired may seek injunctive relief. Provides that a municipality or a public utility may not acquire any of the property of a rural electric membership corporation (REMC) without the consent of the REMC. Provides that, after a municipally owned utility withdraws from the IURC's jurisdiction, the IURC continues to have jurisdiction over the utility's rates and charges

that are charged to customers located outside the municipality's boundaries. Requires the office of utility consumer counselor to represent such customers in rate cases.

Author: David C. Long

01/09/2006 S: 1st Reading referred to Committee on Homeland Security, Utilities, and Public Policy

- **SB0089** *Serial meetings and electronic meetings.*

Provides that, absent express statutory authorization, a member of the governing body of a public agency who is not physically present at a meeting but communicates with other members of the governing body during the meeting by an electronic means of communication (excluding electronic mail) may not participate in a final action taken at the meeting or be considered to be present at the meeting. Allows the governing body of a state educational institution, the Ivy Tech board of trustees (and committee of the board), the board of trustees of Vincennes University (and the committee of the board), and the governing body of a joint agency of a municipal utility program to conduct meetings by electronic means. Provides, with certain exceptions, that a series of gatherings by members of the governing body of a public agency violates the open door law if: (1) less than a quorum of members of the governing body attend each gathering; (2) the total number of members attending all gatherings at least equals a quorum of the governing body; (3) all the gatherings concern the same subject matter and are held within a period of not more than seven days; and (4) the gatherings are held for the purpose of conducting official business.

Author: Beverly J. Gard

Sponsor: Eric Koch

02/07/2006 H: 1st Reading Assigned Government And Regulatory Reform

- **SB0113** *Review of privatization plans.*

Requires a state agency to develop a privatization plan before privatizing any state program. Requires a state agency to hold a hearing on the plan and report the results of the hearing to the public and the budget committee. Requires the budget committee to review privatization plans before implementation and to make advisory recommendations to the governor.

Author: Tim Lanane

01/09/2006 S: 1st Reading Assigned Governmental Affairs and Interstate Cooperation

- **SB0218** *Affiliated interests of regulated utilities.*

Gives the utility regulatory commission (IURC) broader access to records of an affiliate of an electric or a gas utility. Provides that in a case for a fuel or gas cost charge, the utility consumer counselor or any party or intervenor may examine the records of an affiliate from which a utility buys fuel or gas to determine the reasonableness of the cost. Provides that as part of the regular examination of a utility's records, the utility consumer counselor may also examine the records of an affiliate from which the utility buys fuel or gas to determine the reasonableness of the cost of the fuel or gas. Allows the IURC, in ascribing revenue to a utility seeking a fuel or gas cost charge, to ignore any corporate distinction between the utility and an affiliate selling fuel or gas to the utility. Provides

that a contract between a utility and an affiliate is not effective unless the IURC finds that the contract is in the public interest and the result of arm's length negotiations. Allows the IURC to adopt rules concerning certain transactions between utilities and affiliates. Prohibits certain public utilities from providing certain subsidies to affiliates or unregulated activities.

Author: Karen Tallian

01/09/2006 S: 1st Reading referred to Committee on Homeland Security, Utilities, and Public Policy

- **SB0241** *Review of privatization plans.*

Requires a state agency to develop a privatization plan before privatizing any state program. Requires the state agency to hold a hearing on the plan and report the results of the hearing to the public and the legislative council. Requires the legislative council to review privatization plans before implementation and to make advisory recommendations to the governor.

Author: Larry E. Lutz

01/09/2006 S: 1st Reading Assigned Governmental Affairs and Interstate Cooperation

- **SB0257** *Energy and fuel assistance grants to schools.*

Appropriates \$15,000,000 to make energy assistance grants and \$15,000,000 to make transportation assistance grants to school corporations and charter schools.

Author: Ron Alting

01/26/2006 S: **Committee Sched** 9:00 a.m. Room 431 Appropriations

- **SB0391** *Eminent domain.*

Prohibits the state or a political subdivision from transferring any interest in property acquired by eminent domain to another person for commercial use unless: (1) there is a substantial likelihood that the acquisition of the property will promote the opportunity for employment or create business opportunities; and (2) the property is in a blighted area. Defines "blighted area" as an area in which normal development and occupancy are undesirable or impossible due to: (1) deterioration; (2) obsolescence; (3) substandard structures; or (4) the vacancy or abandonment of a significant percentage of the property in the area.

Author: Anita O. Bowser

01/11/2006 S: 1st Reading referred to Committee on Corrections, Criminal, and Civil Matters

## **II. ENERGY**

- **HB1001** *Various tax matters.*

Increases the homestead credit for one year in 2006 to 28% and the homestead standard deduction for one year in 2007 to \$45,000. Provides an additional distribution in 2006 to reimburse counties that send out revised tax bills to implement the additional homestead credit. Permits homestead credits to be certified using the best information available at the time the certification is made. Beginning in 2008, requires counties to use a uniform

format for property tax statements that includes additional taxpayer information. Beginning in August 2009, requires a county to mail a notice concerning budget proceedings and proposed tax rates, tax levies, and budgets to each taxpayer and permits a taxpayer to appeal the taxpayer's assessment within 45 days after getting the notice. Limits use of students and teachers in promoting a bond issue; prohibits attorneys, architects, construction managers, and financial advisors from contributing money to promote a bond issue; and provides standards for accepting signatures on a remonstrance petition. Extends the time in 2006 in which a county fiscal body may adopt an ordinance to provide taxpayers with a cap on residential property taxes equal to 2% of the assessed value of the residential property. Beginning in 2007 for Lake County and 2008 for all other counties, establishes a 2% cap without a county fiscal body ordinance. Extends the 2% cap to all property in 2010. Imposes a utility use tax in transactions on which a utility receipts tax has not been imposed. Indicates that property constructed outside Indiana for Indiana use is subject to use tax. **Exempts home energy assistance from gross receipts tax (sales tax) for one year.** Prohibits the assignment of sales tax remittance deductions to nonaffiliated companies. Requires certain intangibles expenses and directly related intangible interest expense deducted for federal income tax purposes to be added back to a corporation's taxable income for state adjusted gross income tax purposes. Provides after a phase-in period that corporate business income is apportioned to Indiana for adjusted gross income tax purposes using a single sales factor. Indicates how the freight on board location of a sale affects the apportionment formula. Requires a corporation that files combined income tax returns to petition the department of state revenue for permission to discontinue filing combined returns. Permits an additional county adjusted gross income tax rate in Jasper County and an additional county option income tax rate in Scott county to construct and maintain criminal justice facilities. Extends the time in 2006 during which an additional economic development income tax rate may be imposed to provide property tax relief to mitigate the effects of the elimination of the property tax on inventory. Permits a county to provide tax relief to other residential property in addition to homesteads. Replaces the requirement that a dog tax be imposed in each county with a county option dog tax. Makes a technical correction. Increases the calendar year cap on tuition support distributions for the calendar year ending December 31, 2006, by \$48.2 million or the amount needed to avoid reducing distributions in the second six months of the calendar year. Changes the school funding formula to eliminate the effects of annual property tax assessed value adjustments. Provides that a farm mutual insurance company may elect taxation under the gross premium tax instead of the adjusted gross income tax. Directs the office of management and budget to develop a proposal for presentation to the state budget committee by November 1, 2006, concerning an actuarially funded retirement health program for state employees. Makes an appropriation for the additional homestead credit amount. Appropriates \$20.1 million dollars or the amount needed for state tuition support distributions in the state fiscal year ending June 30, 2006. Makes other related changes.

Author: Jeffrey K. Espich

Sponsor: Howard 'Luke' Kenley

03/14/2006 S: Conf Report Adopted(49-1) S

**- HB1076** *Contracts for public water and wastewater projects.*

Includes water and wastewater, in addition to energy, under the guaranteed savings contracts and utility efficiency programs that may be used by local units of government to reduce consumption and usage costs or to provide billable revenue increases.

Author: William C. Friend

Sponsor: Brandt Hershman

02/23/2006 S: Ret 1st House No Amendments

**- SB0087** *Energy, agriculture, and energy development rules.*

Allows the office of the lieutenant governor to adopt rules to carry out the office's duties relating to energy policy, the center for coal technology research, and the recycling and energy development board. Changes the name of the office of rural affairs to the office of community and rural affairs and makes conforming changes. Allows the office of community and rural affairs and the department of agriculture to adopt rules. Creates an advisory board for the office of community and rural affairs. Creates the rural economic development fund. Repeals the rural development administration fund and the rural development council fund, and transfers the balances of the funds to the rural economic development fund. Removes the requirement that a member of the tourism council represents a rural community and changes the requirement for a quorum for the council. Repeals the rural development council, and repeals the requirement that a member of the council is a member of the tobacco farmers and rural community impact fund advisory board.

Author: Robert N. Jackman, D.V.M

Sponsor: Eric A. Gutwein

03/14/2006 S: Conf Report Adopted(49-0) S

**BILLS THAT DIED:**

**- HB1068** *NIPSCO audit.*

Establishes the Northern Indiana Public Service Company (NIPSCO) audit committee to audit the financial records of NIPSCO and to report the results of the audit to the general assembly. Provides that the committee includes two members of the senate, two members of the house of representatives, two attorneys, and two certified public accountants. Requires NIPSCO to pay 50% of the cost of the audit.

Author: Thomas S. Kromkowski

01/04/2006 H: 1st Reading Assigned Utilities And Energy

**- HB1081** *Home energy sales tax exemption. (Amended into HB 1001)*

Provides a sales tax exemption for sales of home energy to a person who acquires the energy through a home energy assistance program administered by the division of family resources.

Author: David B. Yount

Sponsor: Vaneta Becker

02/21/2006 S: **Committee Sched** 9:00 a.m. Room 431 Tax and Fiscal Policy

**- HB1094**     *Reconnection charges.*

Provides that the amount charged by a utility, other than a telecommunications provider, to reconnect service may not exceed actual reconnection costs. Permits a utility to require a deposit before reconnecting service. Requires a utility to reconnect service within one calendar day after being requested to reconnect service.

Author: Winfield C. Moses, Jr.

01/05/2006    H: 1st Reading Assigned   Utilities And Energy

**- HB1264**     *Sustainable energy.*

Establishes the sustainable energy institute to: (1) ensure that utility customers may participate in and benefit from sustainable energy programs; and (2) promote and implement sustainable energy programs. Establishes the sustainable energy board to monitor the progress of the institute in implementing sustainable energy programs. Requires energy utilities to contract with the sustainable energy institute to provide energy efficiency and demand side management services to customers. Allows an energy utility to recover costs associated with sustainable energy programs. Establishes the advanced sustainable energy research and development account in the state general fund to provide grants and loans for sustainable energy research and development projects. Requires the sustainable energy board to administer the account and consider applicants for grants and loans from the account.

Author: Matt Pierce

01/10/2006    H: 1st Reading Assigned   Utilities And Energy

**- HB1284**     *Home energy assistance.*

Appropriates \$20,000,000 to the division of family resources to provide home energy assistance in state fiscal year 2007.

Author: L. Jack Lutz

01/10/2006    H: 1st Reading Assigned   Ways And Means

**- HB1303**     *Energy assistance contingency fund.*

Creates the energy assistance contingency fund to be used for low income home energy assistance and efficiency measures. Appropriates heating fuel sales tax revenue to the fund. Requires the division of family resources to administer the fund.

Author: F. Dale Grubb

01/10/2006    H: 1st Reading Assigned   Utilities And Energy

**- HB1332**     *Alternative fuel production and use.*

Increases the maximum amount of credits that may be granted for biodiesel production, biodiesel blending, and ethanol production. Specifies the maximum amount of a credit that a taxpayer may claim based upon the amount of biodiesel, blended biodiesel, or ethanol produced by the taxpayer. Prohibits the air pollution control board from adopting rules regulating emissions from outdoor furnaces and boilers.

Author: William C. Friend

Sponsor: Thomas K. Weatherwax

02/06/2006    S: 1st Reading Assigned   Tax and Fiscal Policy

**- HB1345** *Income tax credit for sales tax paid for heating.*

Provides a state tax liability credit for a taxpayer: (1) who receives heating energy from a heating energy supplier; and (2) whose household federal adjusted gross income does not exceed 200% of the federal income poverty level. Provides that the amount of the credit equals the lesser of: (1) the amount of sales tax paid by the taxpayer in transactions involving the sale of heating energy to the taxpayer during the taxable year; or (2) \$58.

Author: Bill Davis

01/12/2006 H: 1st Reading Assigned Ways And Means

**- HB1379** *Renewable energy resources.*

Requires an electricity supplier to: (1) supply a certain percentage of its total electricity supply from renewable energy resources; and (2) include certain information concerning renewable energy resources in customers' bills. Establishes the renewable energy resources fund. Requires an electricity supplier that fails to supply electricity from renewable energy resources to pay a penalty. Deposits the penalties in the fund.

Author: Don Lehe

01/25/2006 H: **Committee Sched** 3:30 p.m. Room 156-C Utilities And Energy

**Note: House Resolution 23, adopted by voice vote on 3/6/06, urges the Legislative Council to assign the issue of renewable energy development to the Regulatory Flexibility Committee.**

**- HB1399** *Taxes and local finances.*

Establishes the state commission on responsibility and efficiency. Legalizes certain public debt instruments. Makes changes in laws governing the adoption of budgets, tax rates, and tax levies and the administration of public funds. Eliminates restrictions on property tax replacement fund distributions. Provides a property tax credit for homesteads whenever the assessed value increases by more than 75% in a general reassessment. Provides an income tax credit for sales tax paid on home heating energy. Provides a temporary sales tax exemption for home heating energy and gasoline. Permanently caps the price on which sales tax is charged on gasoline at \$1.50 per gallon. Permits a county income tax council or a municipality to adopt a motor vehicle excise surtax and a wheel tax under certain circumstances. Authorizes counties, cities, and towns to adopt the following additional local taxes: (1) Income taxes. (2) Food and beverage taxes. (3) Innkeeper's taxes. (4) Sales taxes. Increases Indiana's minimum hourly wage. Provides alternative procedures for cooperative agreements. Permits establishment of governmental service territories. Makes other related changes.

Author: Matthew D. Whetstone

01/26/2006 H: **Committee Sched** 9:00 a.m. Room 404 Ways And Means

**- HB1405** *Code for building rehabilitation.*

Requires the building rules adopted by the fire prevention and building safety commission concerning rehabilitation of a structure to promote safety, sanitary conditions, energy conservation, access to a Class 1 structure by a person with a physical disability, and preservation of the structure's historical, architectural, archeological, and cultural aspects. (Under current law, the commission's building rules governing rehabilitation are required to promote only safety.)

01/12/2006 H: 1st Reading Assigned Public Safety And Homeland Security

**- SB0101** *Insulation income tax deduction.*

Increases the individual income tax deduction for installation of new insulation from \$1,000 to \$2,000.

Author: Vaneta Becker

01/09/2006 S: 1st Reading Assigned Tax and Fiscal Policy

**- SB0216** *Gas utility connection charges and deposits.*

Provides that the amount charged by a gas utility to connect or reconnect service may not exceed actual connection or reconnection costs. Permits a gas utility to require a deposit before connecting or reconnecting service. Provides that the amount of the deposit may not exceed a customer's estimated average monthly bill.

Author: John E. Broden

01/09/2006 S: 1st Reading referred to Committee on Homeland Security, Utilities, and Public Policy

**- SB0352** *Energy assistance funding from tax amnesty.*

Uses money received under the tax amnesty program to provide assistance to households that are eligible for assistance under the home energy assistance program administered by the division of family resources (division). Directs the auditor of state to transfer to a special account in the state general fund, from unrestricted revenues in the state general fund, an amount equal to the least of the following: (1) The surplus state tax amnesty revenues, as certified by the budget agency. (2) The difference between the amount of funding needed and the amount of funding available to make home energy assistance available to all eligible households. (3) \$20,000,000. Appropriates money in the special account to the division to provide assistance to eligible households under the home energy assistance program for the program period that includes the effective date of this act. Provides that money remaining in the account at the end of the program period reverts to the state general fund.

Author: Tim Lanane

01/10/2006 S: 1st Reading Assigned Appropriations

### **III. Telecommunications**

**- HB1279** *Telecommunications.*

Prohibits the utility consumer counselor from engaging in another occupation that would conflict with the duties of the office. (Current law prohibits the counselor from engaging in any other occupation.) Specifies that a person that transmits communications through Internet Protocol enabled services is not a public utility. Prohibits the IURC from exercising jurisdiction over: (1) advanced and broadband services; and (2) information services. Specifies that the IURC shall not exercise jurisdiction over commercial mobile service. Prohibits, after March 27, 2006, the IURC from exercising jurisdiction over nonbasic telecommunications service. Specifies that "basic telecommunications service" does not include functionally equivalent service provided by a person that transmits communications through Internet Protocol enabled services. Provides that during the



period beginning March 28, 2006, and ending June 30, 2009, a provider may increase the flat monthly rate for basic telecommunications service: (1) not more than once; and (2) by not more than \$1; every 12 months. Provides that not later than 18 months after a provider's first rate increase in a local exchange area, the provider must offer broadband service to at least 50% of households in the local exchange area. Requires an incumbent local exchange carrier (ILEC) to continue to offer a flat monthly rate for unlimited local calling in exchange areas in which the provider offers basic telecommunications service on March 27, 2006. Provides that after June 30, 2009, a provider that offers basic telecommunications service in Indiana: (1) must offer a flat monthly rate for unlimited local calling in each exchange area in which the provider offers basic telecommunications service; and (2) may not offer any service plan that includes measured local service. Prohibits, after June 30, 2009, the IURC from exercising jurisdiction over basic telecommunications service. Makes conforming changes to the laws concerning rural telephone cooperatives. Prohibits the IURC from exceeding the authority delegated to it under federal law with respect to: (1) interconnection; (2) the resale of telecommunications service; and (3) unbundled network elements. Requires the IURC to biennially identify and eliminate telecommunications regulations that are no longer necessary in the public interest or for the protection of consumers. Preserves the IURC's duties with respect to: (1) dual party relay services; (2) the 211 dialing code and other universally applicable dialing codes; (3) slamming and cramming laws; (4) universal service; (5) certificates of territorial authority; (6) mediating or arbitrating disputes between providers; (7) interconnection agreements; and (8) rates charged by an ILEC to a pay phone service provider. Allows the IURC to require communications service providers, other than commercial mobile service providers, to report annually, or more frequently at the option of the provider, information on: (1) service quality and performance; (2) the provider's dark fiber in Indiana; and (3) the types of communications service offered by the provider and the areas in Indiana in which those services are offered. Requires the IURC to adopt rules requiring a telecommunications service provider, whenever the provider communicates with a residential customer about changing the customer's basic telecommunications service to nonbasic telecommunications service, to notify the customer of: (1) the option of basic telecommunications service; and (2) any regulatory protections the customer would forego by switching to nonbasic telecommunications service. Exempts commercial mobile service providers from certain reporting requirements, while requiring commercial mobile service providers to provide the IURC certain customer service contact information. Allows the IURC to revoke a certificate of territorial authority issued to a communications service provider if the provider fails or refuses to comply with the reporting requirements. With respect to telecommunications service providers and video service providers, allows the IURC to: (1) order certain equitable remedies; and (2) impose a civil penalty of not more than \$10,000; if a service of the provider over which the commission has jurisdiction is unsafe, unjustly discriminatory, or inadequate, or if the service cannot be obtained. Allows a provider of last resort to meet its obligations using any available technology. After June 30, 2009, requires a communications service provider to obtain a certificate of territorial authority from the IURC before offering communications service in Indiana. Requires the IURC to issue a certificate not later than 30 days after receiving a complete and accurate application from

a provider. Provides that the IURC may not require a provider to file a tariff as a condition of receiving a certificate. Allows the IURC to condition the issuance of a certificate on a provider's agreement to provide advance notice to customers of increases in rates or services. Provides that a certificate of public convenience and necessity issued to an REMC may serve as a certificate of territorial authority for communications service provided by the REMC, subject to the IURC's right to require the REMC to provide certain information about the communications services provided. Prohibits a communications service provider from entering into an agreement after March 27, 2006, that requires any person to restrict or limit the ability of another provider to obtain: (1) easements or rights-of-way; or (2) access to real property. Provides that the IURC may not require a provider to provide communications service to occupants of multitenant nonresidential real estate if the owner, operator, or developer of the property does any of the following to benefit another provider: (1) Permits only one provider to install communications facilities or equipment on the premises. (2) Accepts incentives from a provider in exchange for allowing the provider the exclusive right to provide service to the premises. (3) Collects charges from occupants for communications service. (4) Enters into a prohibited agreement with a provider. Prohibits the owner, operator, or developer of multitenant real estate from taking certain actions to restrict or limit the access of a communications service provider to the property. Allows the owner, operator, or developer of multitenant real estate to impose certain conditions and limitations on a provider's access to the property in order to protect the safety or condition of the property or the safety and convenience of other people. Provides that certain persons affected by a violation of the access provisions may seek equitable or compensatory relief. Provides that the Indiana finance authority shall determine underserved areas within Indiana for purposes of the Indiana broadband development program. Provides that after June 30, 2006, the IURC is the sole franchising authority for the provision of video service in Indiana. Preserves the manner of determining gross revenue and franchise fee percentages set forth in existing local franchises. Prohibits the IURC from requiring a multichannel video programming distributor to pay any fee or charge, other than a franchise fee paid to a local unit, as a condition of receiving or holding a state certificate of franchise authority. Provides that the holder of a state issued franchise must comply with state and local laws governing the use of rights-of-way. Provides that such laws may not: (1) discriminate against a provider based on the technology used to deliver service; or (2) allow a video service system owned or operated by a local unit to use rights-of-way on more favorable terms. Prohibits the IURC from requiring a provider to satisfy any build-out requirements. Allows the holder of a local franchise on June 30, 2006, to: (1) continue providing service under the local franchise until the local franchise expires; or (2) terminate the local franchise and apply to the IURC for a state issued franchise. Provides that a provider that terminates a local franchise remains subject to any obligations owed to a private person under the franchise until the time the terminated franchise would ordinarily expire. Prescribes requirements concerning public, educational, and governmental channel capacity and financial support. Provides that a video service provider in a unit that has an existing, a terminated, or an expired local franchise is required to continue providing institutional network capacity and video service to community public buildings until January 1, 2009, or until the local franchise will expire or would have expired, whichever is later. Prohibits a provider from denying

access to video service to any group of potential subscribers based on income. Requires the IURC to adopt rules to establish the Indiana Lifeline assistance program to provide reduced charges for basic telecommunications service for eligible customers. Requires the IURC to collect, on at least an annual basis, certain data concerning the build out of video service infrastructure in each metropolitan statistical area in Indiana during the period beginning July 1, 2006, and ending June 30, 2010. Requires the IURC to include the data collected in the IURC's report to the regulatory flexibility committee due July 1, 2010. Requires the IURC to: (1) conduct an analysis of retail and wholesale rates charged by the telecommunications industry in Indiana; and (2) make a record of each instance of predatory pricing identified; for the period beginning July 1, 2006, and ending June 30, 2008. Requires the IURC to report its findings to the legislative council not later than November 1, 2008. Repeals superseded statutes.

Author: Michael B. Murphy  
Sponsor: Brandt Hershman  
03/14/2006 H: Governor Signed

- **HB1315** *Video service franchises.*

Provides that the obligations owed to private persons by a video service provider that terminates a local franchise in order to obtain a state-issued franchise do not include obligations: (1) arising out of the terminated local franchise; or (2) based on the gross income received by the provider in the service area covered by the terminated local franchise.

Author: Jeffrey Thompson  
Sponsor: Sue Landske  
03/14/2006 S: Conf Report Adopted(42-7) S

- **SB0069** *Governance of rural telephone cooperatives.*

Specifies that, in an election for a director of a rural telephone cooperative corporation, the corporation's bylaws may provide that if more than two persons run for election as a director from the same district, the person receiving the most votes is elected, regardless of whether that person receives a majority of the total votes cast by those members present and voting at the meeting at which the election occurs.

Author: Thomas K. Weatherwax  
Sponsor: Eric Koch  
03/13/2006 S: Governor Signed

- **SB0283** *Emergency telephone notification system.*

Authorizes a county or municipality to establish an emergency telephone notification system to warn service users of emergencies. Grants civil immunity to a service supplier or telephone company in conjunction with operating an emergency telephone notification system.

Author: Richard D. Young, Jr.  
Sponsor: Robert J. Bischoff  
03/15/2006 S: Received By Governor

## **BILLS THAT DIED:**

- **HB1119**      *Governance of rural telephone cooperatives. (But see SB 69 above)*  
Specifies that, in an election for a director of a rural telephone cooperative corporation, the corporation's bylaws may provide that if more than two persons run for election as a director from the same district, the person receiving the most votes is elected, regardless of whether that person receives a majority of the total votes cast by those members present and voting at the meeting at which the election occurs.

Author: Robert Cherry

01/05/2006    H: 1st Reading Assigned    Utilities And Energy

- **HB1131**      *Cable franchises.*  
Prohibits a unit of local government from granting a franchise for the provision of video programming or other programming service on terms or conditions more favorable or less burdensome than those of any existing franchise. Specifies that a new franchise must impose on the new cable operator equivalent obligations concerning: (1) public, educational, or government access facilities; or (2) other requirements; imposed on an existing operator under an existing franchise.

Author: Phillip D. Hinkle

01/05/2006    H: 1st Reading referred to Committee on Technology, Research and Development

- **SB0245**      *Telecommunications. (But see HB 1279 above)*  
Specifies that a person that transmits communications through Internet Protocol enabled services is not a public utility. Prohibits the IURC from exercising jurisdiction over: (1) advanced and broadband services; and (2) information services. Prohibits, after March 27, 2006, the IURC from exercising jurisdiction over nonbasic telecommunications service. Specifies that "basic telecommunications service" does not include functionally equivalent service provided by a person that transmits communications through Internet Protocol enabled services. Provides that during the period beginning March 28, 2006, and ending June 30, 2009, a provider may increase the flat monthly rate for basic telecommunications service: (1) not more than once; and (2) by not more than \$1; every 12 months. Provides that not later than 18 months after a provider's first rate increase in a local exchange area, the provider must offer broadband service to at least 50% of households in the local exchange area. Requires an incumbent local exchange carrier (ILEC) to continue to offer a flat monthly rate for unlimited local calling in exchange areas in which the provider offers basic telecommunications service on March 27, 2006. Provides that after June 30, 2009, a provider that offers basic telecommunications service in Indiana: (1) must offer a flat monthly rate for unlimited local calling in each exchange area in which the provider offers basic telecommunications service; and (2) may not offer any service plan that includes measured local service. Prohibits, after June 30, 2009, the IURC from exercising jurisdiction over basic telecommunications service. Makes conforming changes to the laws concerning rural telephone cooperatives. Prohibits the IURC from exceeding the authority delegated to it under federal law with respect to: (1) interconnection; (2) the resale of telecommunications service; and (3) unbundled network elements. Requires the IURC to biennially identify and eliminate obsolete

telecommunications regulations. Preserves the IURC's duties with respect to: (1) dual party relay services; (2) the 211 dialing code; (3) slamming and cramming laws; (4) universal service; (5) certificates of territorial authority; (6) mediating or arbitrating disputes between providers; (7) interconnection agreements; and (8) rates charged by an ILEC to a pay phone service provider. Allows the IURC to require communications service providers to report annually, or more frequently at the option of the provider, information on: (1) service quality and performance; (2) the provider's dark fiber in Indiana; and (3) the types of communications service offered by the provider and the areas in Indiana in which those services are offered. Allows the IURC to revoke a certificate of territorial authority issued to a communications service provider if the provider fails or refuses to comply with the reporting requirements. Provides that on July 1, 2009, certain consumer protection duties of the IURC are transferred to the office of utility consumer counselor. Provides that after June 30, 2009, communications service providers are not subject to the public utility fee. Allows a provider of last resort to meet its obligations using any available technology. After June 30, 2009, requires a communications service provider to obtain a certificate of territorial authority from the IURC before offering communications service in Indiana. Requires the IURC to issue a certificate not later than 30 days after receiving a complete and accurate application from a provider. Provides that the IURC may not require a provider to file a tariff as a condition of receiving a certificate. Allows the IURC to condition the issuance of a certificate on a provider's agreement to provide advance notice to customers of changes in rates or services. Provides that a certificate of public convenience and necessity issued to an REMC may serve as a certificate of territorial authority for communications service provided by the REMC, subject to the IURC's right to require the REMC to provide certain information about the communications services provided. Prohibits a communications service provider from entering into an agreement after March 27, 2006, that requires any person to restrict or limit the ability of another provider to obtain: (1) easements or rights-of-way; or (2) access to real property. Provides that the IURC may not require a provider to provide communications service to occupants of multitenant real estate if the owner, operator, or developer of the property does any of the following to benefit another provider: (1) Permits only one provider to install communications facilities or equipment on the premises. (2) Accepts incentives from a provider in exchange for allowing the provider the exclusive right to provide service to the premises. (3) Collects charges from occupants for communications service. (4) Enters into a prohibited agreement with a provider. Provides that after June 30, 2006, the IURC is the sole franchising authority for the provision of video service in Indiana. Provides that the holder of a state issued franchise must comply with state and local laws governing the use of rights-of-way. Provides that such laws may not: (1) discriminate against a provider based on the technology used to deliver service; or (2) allow a video service system owned or operated by a local unit to use rights-of-way on more favorable terms. Prohibits the IURC from requiring a provider to satisfy any build-out requirements. Requires, as a condition of holding or receiving a state franchise, a provider to offer, in each service area included in the franchise, a service tier or package that allows the subscriber to choose the programming channels that comprise the service tier or package. Allows the holder of a local franchise on June 30, 2006, to: (1) continue providing service under the local franchise until the local franchise expires; or (2) terminate the local franchise and

apply to the IURC for a state issued franchise. Provides that a provider that terminates a local franchise remains subject to any obligations owed to a private person under the franchise until the time the terminated franchise would ordinarily expire. Requires the holder of a state issued franchise to pay a quarterly franchise fee to each local unit included in the holder's service area. Provides that the fee to be paid to a unit equals 5% of the provider's gross revenue from providing video service in the unit. Prescribes requirements concerning public, educational, and governmental channel capacity and financial support. Prohibits a provider from denying access to video service to any group of potential subscribers based on income. Prohibits a political subdivision that does not provide communications service on June 30, 2006, from providing communications service, other than broadband service, after June 30, 2006. Prohibits a political subdivision from controlling, owning, or operating facilities for providing broadband service unless the political subdivision: (1) conducts an inquiry into the availability of broadband service from other providers in the area; (2) holds a public hearing; and (3) determines the costs and benefits of the proposed facilities. Prohibits a political subdivision that provides communications service from requiring a nonsubscriber to pay any of the costs of providing the service. After June 30, 2009, allows a political subdivision that provides broadband service to provide content and programming through the same facilities used by the political subdivision to provide broadband service. Requires the IURC to adopt rules to establish the Indiana Lifeline assistance program to provide reduced charges for basic telecommunications service for eligible customers. Repeals superseded statutes.

Author: Brandt Hershman

Author: Thomas J. Wyss

Sponsor: Eric Koch

02/21/2006 H: Committee Report amend do pass, adopted

- **SB0301** *Access to I-Light network by hospitals.*

Provides that if the universities that administer the Indiana higher education telecommunications system determine that the I-Light fiber optic network has excess capacity not needed to meet the communications needs of authorized users, the universities may allow public or private hospitals to access the network after June 30, 2006. Provides that the universities shall provide I-Light access to the hospitals at a cost that does not exceed the universities' costs to operate, maintain, and administer the network.

Author: David C. Ford

02/02/2006 S: 3rd Reading Defeat (21-29)

#### **IV. ENVIRONMENT**

- **HB1110** *Environmental law.*

Requires manufacturers of motor vehicles offered for sale in Indiana to develop and implement a plan to remove, collect, recover, and recycle or dispose of certain mercury switches from end of life vehicles. Exempts from mercury switch plan development requirements motor vehicle manufacturers that have never installed mercury switches in their motor vehicles. Requires the Indiana department of environmental management

(IDEM) to allow a public comment period on a plan of at least 30 days, and to act on the plan within 120 days. Requires motor vehicle recyclers to remove all mercury switches from end of life vehicles. Provides that motor vehicle recyclers include automotive salvage recyclers, automobile scrapyards, hulk crushers, scrap metal processors, and vehicle disposal facilities. Provides that mercury switch removal requirements take effect 30 days after IDEM approves a plan and expire the earlier of July 1, 2016, or the date a national mercury switch recovery program takes effect. Provides for a payment out of the solid waste management fund (SWMF) to a motor vehicle recycler for each mercury switch removed: (1) in an amount of at least \$1 and not more than \$5 as determined by the IDEM commissioner; and (2) to the extent that the commissioner makes money available from the SWMF for that purpose. Allows money to be redirected to the SWMF for that purpose from the Indiana recycling promotion and assistance fund and the environmental management special fund (EMSF). Allows any person to contribute or assign assets to the solid waste management fund to be used by IDEM to make payments for mercury switches. Requires IDEM to report information on mercury switch removal to the legislative council and the environmental quality service council.

Author: Tim Brown

Sponsor: Beverly J. Gard

03/14/2006 S: Conf Report Adopted(50-0) S

- **HB1117** *Environmental law.*

Changes reporting requirements for a person transporting solid waste in a vehicle to a final disposal facility in Indiana for disposal. Makes it permissive rather than mandatory for the solid waste management board to adopt rules imposing a fee on the disposal or incineration in a final disposal facility in Indiana of solid waste generated outside Indiana. Allows a county without zoning or a municipality in the county to enter into a host agreement. With respect to a landfill or waste site located in a county without zoning for which a construction permit was issued after March 1, 2006, and for which a host agreement has not been entered into: (1) allows the county fiscal body to establish a disposal fee that does not exceed \$2.50 per ton; and (2) allows use of the revenue only for infrastructure related to the landfill. Applies the restriction that a waste disposal facility financed by Indianapolis must accept waste regardless of whether the waste was collected by the city only if the financing occurs after the term of the current Indianapolis financing.

Author: David Alan Wolkins

Sponsor: Beverly J. Gard

03/16/2006 H: Received By Governor

- **HB1285** *Alternative fuels.*

Requires the environmental quality service council to study and make findings and recommendations concerning: (1) the most effective ways of implementing the Renewable Fuels Standards of the federal Energy Policy Act of 2005 in Indiana; (2) the feasibility of requiring motor vehicles sold in Indiana to meet the flexible fuel vehicle standards of 85% ethanol (E85) motor fuel for gasoline powered motor vehicles and 20% biodiesel (B20) motor fuel for diesel powered motor vehicles; (3) the regulation of

outdoor wood-burning furnaces; and (4) the use of methane gas from landfills and anaerobic digestion as a fuel source.

Author: Steven Heim

Sponsor: Victor Heinold

03/16/2006 H: Received By Governor

- **SB0234** *Environmental rules and enforcement.*

Establishes requirements in environmental rulemaking for disclosure of the availability of technical assistance programs and the identity of and contact information for the department of environmental management's ombudsmen and small business regulatory coordinator. States certain notice requirements for environmental rulemaking in terms of state restrictions or requirements: (1) that are more stringent than federal restrictions or requirements; or (2) that apply in a subject area where federal law does not impose restrictions or requirements. Allows for the establishment of environmental performance based programs and authorizes the adoption of rules to implement the programs. Provides that a determination of status as a member or participant in a program is not subject to the administrative orders and procedures act. Establishes a special procedure for the water pollution control board to adopt rules to establish new water quality standards for certain communities served by combined sewers. Extends the expiration date of noncode sections that state the required level of protection of certain waters of the state and that direct the water pollution control board to amend certain water quality rules and to make certain water use category determinations. Requires the environmental quality service council to study and make findings and recommendations concerning the positive and negative aspects of enacting legislation that would prohibit environmental rules from being more stringent than corresponding provisions of federal law.

Author: Beverly J. Gard

Sponsor: David Alan Wolkins

03/15/2006 S: Received By Governor

- **SB0353** *Alternative fuel use and production.*

Allows a deduction for the retail sale of E85 base fuel from the amount of state gross retail tax that the seller is required to remit. Increases the maximum amount of credits that may be granted for biodiesel production, biodiesel blending, and ethanol production and indicates that the Indiana economic development corporation may grant a credit that is less than the maximum permissible statutory credit. Extends the tax credit for the retail sale of blended biodiesel to 2010. Makes changes in certain definitions applicable to the special fuels tax law. Extends the tax credit for integrated coal gasification powerplants to investments in fluidized combustion bed technologies. Requires the department of agriculture to work with: (1) automobile manufacturers to improve awareness and labeling; and (2) companies to include E85 stations in updates of global positioning navigation software. Grants tort and products liability immunity for the misuse of E85 motor fuel in a vehicle that is not equipped to use E85 motor fuel. Makes related changes.

Author: Brandt Hershman

Author: Thomas K. Weatherwax

Sponsor: Eric A. Gutwein

03/15/2006 S: Received By Governor



## **BILLS THAT DIED:**

- **HB1067**     *Birth and death records.*

Adopts privacy standards for disclosure of information contained in vital records, reports, and statistics. Requires the state department of health to adopt rules for inspections of vital records, reports, and statistics for genealogical studies. Allows the news media to inspect and copy vital records, reports, and statistics. Makes conforming changes.

Author: Robert Cherry

01/04/2006    H: 1st Reading Assigned   Public Health

- **HB1121**     *Flood control.*

Requires the natural resources commission to direct the department of natural resources to prepare a statewide flood risk and flood damage assessment. Places a limit on the maximum amount of fill material that may be placed in a floodway, subject to certain exceptions. Makes violation of the limit a Class B infraction. Specifies the standards of review for an application for a permit for certain obstructing activities in a floodway. Allows summary denial of a permit application in certain circumstances. Prohibits a person from placing certain materials in a floodway as fill or for the purposes of bank stabilization. Places restrictions on the use of flood conveyance channels.

Author: David Orentlicher

01/05/2006    H: 1st Reading Assigned   Natural Resources

- **HB1122**     *Discharge of water by oceangoing vessels.*

Requires the water pollution control board to establish permit requirements for the discharge of water by oceangoing vessels in Indiana ports that ensure aquatic nuisance species will not be discharged. Requires an oceangoing vessel to obtain a permit from the department of environmental management before discharging water in an Indiana port.

Author: Mary Kay Budak

01/26/2006    H: **Committee Sched** 10:00 a.m. Room 156-B   Environmental  
Affairs

- **HB1263**     *Timber sales and wilderness areas.*

Adds the promotion of tourism and recreation activities in state forests as public policies of the state. Establishes requirements that the department of natural resources must follow before entering into a contract to sell timber from a state forest. Provides that requirements to grant a contract to log the timber does not apply to existing contracts. Allows areas to be established and preserved as wilderness areas. Requires the department of natural resources to survey state forest lands every five years to determine if certain lands should be designated as nature preserves or wilderness areas.

Author: Matt Pierce

01/10/2006    H: 1st Reading Assigned   Natural Resources

- **HB1289**     *Biomonitoring program.*

Requires the state department of health to establish a biomonitoring program to identify and assess the concentration of toxic chemicals in individuals. Establishes a

biomonitoring advisory panel. Requires the state department of health to issue reports to the general assembly and post certain information on an Internet web site.

Author: Ryan Dvorak

01/10/2006 H: 1st Reading Assigned Public Health

- **HB1364** *Environmental rulemaking.*

Prohibits the air pollution control board, water pollution control board, and solid waste management board from adopting a rule or standard that is more stringent than a corresponding federal provision established under federal law unless the: (1) rule or standard is adopted under a statute that authorizes the board to adopt a rule or standard that is more stringent than the corresponding federal provision; (2) rule expires not later than January 1 of the seventh year after the year in which the rule takes effect; (3) standard is included in an emergency order under certain circumstances; or (4) rule or standard is included in an emergency rule under certain circumstances.

Author: David Alan Wolkins

01/12/2006 H: 1st Reading Assigned Environmental Affairs

- **SB0141** *Confined feeding operations.*

Requires the department of environmental management to revoke the approval for a confined feeding operation if at least three violations of confined feeding or water pollution control laws occur at the confined feeding operation in any two year period. Prohibits the department from waiving certain civil penalties for violations of confined feeding laws.

Author: Tim Lanane

01/09/2006 S: 1st Reading Assigned Energy and Environmental Affairs

- **SB0219** *Ballast water and sediment in vessels.*

After June 30, 2007: (1) allows a vessel to operate in waters of Indiana only if ballast water and sediment in the vessel have been sterilized; and (2) allows a discharge of ballast water or sediment into the waters of Indiana only if the department of environmental management (IDEM) has issued a permit for the discharge. Requires IDEM to establish a ballast water and sediment inspection program that ensures that aquatic nuisance species do not enter the waters of Indiana. Requires the water pollution control board to adopt rules to implement these provisions.

Author: Karen Tallian

01/09/2006 S: 1st Reading Assigned Energy and Environmental Affairs

- **SB0312** *Environmental crimes study committee.*

Establishes the environmental crimes interim study committee to develop legislation designed to improve the enforcement of environmental violations by replacing the general penalty structure for environmental violations under current law with a more specific set of penalties. Requires the study committee to operate under the rules of the legislative council and to be staffed by the legislative services agency.

Author: Howard 'Luke' Kenley

01/10/2006 S: 1st Reading Assigned Rules And Legislative Procedures

- **SB0314**      *Soil and water conservation districts and wild animals.*  
Redefines "wild animal". Removes the definition of and references to exotic animals. Establishes water quality protection as a legislative policy. Makes changes to the membership of the soil conservation board (board) and the advisory members. Requires the board to conduct a conservation needs inventory and hold meetings throughout the state. Allows a waiver of the ten acres of land requirement to be waived for elected soil and water conservation district supervisors. Removes the requirement that the nominees for elected supervisors must exceed the vacancies. Allows the board to appoint associate supervisors for soil and water conservation districts. Adds information that must be included in annual reports. Requires the department of agriculture to implement a geographic information system for each county. Allows the clean water Indiana program to provide financial assistance to soil and water conservation districts. Repeals: (1) the definition of exotic mammals; and (2) the chapter of the code concerning breeder's licenses. Requires the legislative services agency to prepare legislation redodifying the soil and water conservation programs in the article of the Indiana Code concerning the department of agriculture. Makes technical corrections.

Author: Johnny Nugent

Sponsor: William C. Friend

02/27/2006    H: 3rd Reading Defeat (41-53)

- **SB0316**      *Steel mill and refinery property taxes.*  
Adjusts the annual depreciation percentages for the personal property tax valuation of special integrated steel mill and oil refinery/petrochemical equipment.

Author: Frank Mrvan, Jr.

01/10/2006    S: 1st Reading Assigned Tax and Fiscal Policy

- **SB0392**      *Growth related projects and land conservation.*  
Prohibits various state agencies from funding growth related projects in certain areas. Requires the department of local government finance to give priority to school construction projects that: (1) renovate or expand existing school buildings; (2) are located in existing neighborhoods; (3) do not contribute to the conversion of farm lands; and (4) do not require new water or sewer infrastructure. Provides a tax credit for job creation in certain municipal areas. Establishes the Hoosier legacy fund to fund eligible projects under the United States Department of Agriculture's farmland preservation and forest legacy programs. Authorizes the land resources council to identify priority funding areas and perform certain other tasks. Makes a technical correction.

Author: Frank Mrvan, Jr.

01/11/2006    S: 1st Reading Assigned Tax and Fiscal Policy