



Reprinted  
February 27, 2001

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## HOUSE BILL No. 1856

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DIGEST OF HB 1856 (Updated February 26, 2001 5:02 PM - DI 75)

**Citations Affected:** IC 2-3; IC 2-5; IC 5-10.2; IC 33-13; IC 33-19; noncode.

**Synopsis:** Public officer salaries. Provides that the annual compensation for legislators is 20% of the governor's salary, beginning January 1, 2003. Provides that the legislator out-of-session subsistence allowance is equal to 40% of 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. Establishes the public officers compensation commission. Provides for the commission to make recommendations to the general assembly for the salaries of officers in the executive branch and for judges. Establishes a judicial salaries fee of \$6 to be collected in certain civil actions and in certain criminal, infraction, and ordinance violation actions. Provides for the judicial salaries fee to be deposited in the state general fund. Increases the annual salaries of local judges and appellate court judges by \$9,000 effective January 1, 2002. Provides that for the purposes of computing a retirement benefit for a person who is a member of Indiana state teachers' retirement fund and who takes an unpaid leave of absence to serve in an elected position: (1) "annual compensation" includes the total amount that was not paid to the member but would have paid to the member during the year under the member's employment contracts if the member had not taken any unpaid leave of absence to serve in an elected position; and (2) the "average of the annual compensation" means the annual compensation for the one year of service in which the member's annual compensation was highest.

**Effective:** Upon passage; June 1, 2001; July 1, 2001; January 1, 2002; January 1, 2003.

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### Dobis, Porter, Mannweiler

(SENATE SPONSORS — WHEELER, LANDSKE, YOUNG R, ROGERS)

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January 17, 2001, read first time and referred to Committee on Ways and Means.  
January 22, 2001, reassigned to Committee on Rules and Legislative Procedures.  
February 19, 2001, amended, reported — Do Pass.  
February 21, 2001, read second time, ordered engrossed.  
February 22, 2001, engrossed.  
February 26, 2001, read third time, recommitted to Committee of One, amended; passed.  
Yeas 69, nays 27.

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HB 1856—LS 7842/DI 75



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Reprinted  
February 27, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

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## HOUSE BILL No. 1856

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

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 2-3-1-1 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JANUARY 1, 2003]: Sec. 1. The annual salary of the  
3 members of the general assembly shall be ~~eleven thousand six hundred~~  
4 ~~dollars (\$11,600):~~ **an amount equal to twenty percent (20%) of the**  
5 **governor's annual salary.** One-half (1/2) the annual salary shall be  
6 paid on the fifteenth day of January, and one-half (1/2) the annual  
7 salary shall be paid on the fifteenth day of February.

8 SECTION 2. IC 2-3-1-5 IS ADDED TO THE INDIANA CODE AS  
9 A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON  
10 PASSAGE]: **Sec. 5. (a) This section applies during the following**  
11 **periods:**

- 12 (1) Each day that the general assembly is not convened in  
13 regular or special session.  
14 (2) Each day after the first session day held in November and  
15 before the first session day held in January except for any day  
16 after the first session day held in November and before the  
17 first session day held in January with respect to which all

HB 1856—LS 7842/DI 75+



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members of the general assembly are entitled to a legislative business per diem.

(b) 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.

(c) Each member of the general assembly is entitled to a subsistence allowance equal to forty percent (40%) of the maximum daily amount.

(d) The subsistence allowance changes each time there is a change in the maximum daily amount.

(e) The subsistence allowance is payable from appropriations for legislators' subsistence.

SECTION 3. IC 2-5-1.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

**Chapter 1.5. Public Officers Compensation Commission**

**Sec. 1.** As used in this chapter, "commission" refers to the public officers compensation commission established by section 5 of this chapter.

**Sec. 2.** As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

**Sec. 3.** As used in this chapter, "public employee" refers to any of the following:

- (1) An employee of the state.
- (2) An employee of a political subdivision.
- (3) An employee of any other entity whose salary is paid in any part from funds derived from taxes imposed by the state or a political subdivision.

**Sec. 4.** As used in this chapter, "public officer" refers to any of the following:

- (1) The governor.
- (2) The lieutenant governor.
- (3) The secretary of state.
- (4) The auditor of state.
- (5) The treasurer of state.
- (6) The attorney general.
- (7) The clerk of the supreme court.
- (8) The state superintendent of public instruction.
- (9) A justice of the supreme court of Indiana.
- (10) A judge of the court of appeals of Indiana.
- (11) A judge of the Indiana tax court.

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(12) A judge of a circuit, superior, probate, or county court.  
Sec. 5. The public officers compensation commission is established.

Sec. 6. (a) The commission consists of the following members:  
(1) Two (2) members appointed by the speaker of the house of representatives. The members appointed under this subdivision may not be members of the same political party.  
(2) Two (2) members appointed by the president pro tempore of the senate. The members appointed under this subdivision may not be members of the same political party.  
(3) Two (2) members appointed by the governor. The members appointed under this subdivision may not be members of the same political party.  
(4) Two (2) members appointed by the chief justice of the supreme court of Indiana. The members appointed under this subdivision may not be members of the same political party.  
(5) One (1) member appointed by the chief judge of the court of appeals of Indiana.

(b) The following may not be a commission member:  
(1) A public officer.  
(2) A public employee.  
(3) An individual who has a pecuniary interest in the salary of a public officer. For purposes of this subdivision, an individual has a pecuniary interest in the salary of a public officer if an increase in the salary of a public officer will result in an ascertainable increase in the income or net worth of the individual.

Sec. 7. (a) The term of a commission member begins on the later of the following:  
(1) July 1 after the member is appointed.  
(2) The day the member accepts the member's appointment.  
(b) The term of a commission member expires on July 1 of the third year after the year the member's term begins.  
(c) A member may be reappointed to serve a new term.

Sec. 8. (a) If there is a vacancy on the commission, the public officer who appointed the member whose position is vacant shall appoint an individual to fill the vacancy.

(b) The member appointed under this section shall fill the vacancy for the remainder of the unexpired term.

Sec. 9. (a) Before July 1 of each year, the chairman of the legislative council shall appoint one (1) member to be chair of the commission.

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1           **(b) The member appointed as chair of the commission serves as**  
 2 **chair beginning July 1 after appointment.**

3           **(c) A member of the commission may be reappointed as chair of**  
 4 **the commission.**

5           **Sec. 10. Six (6) commission members constitute a quorum. The**  
 6 **affirmative votes of at least six (6) commission members are**  
 7 **necessary for the commission to take official action other than to**  
 8 **adjourn or to meet to hear reports or testimony.**

9           **Sec. 11. The commission shall meet at the call of the chair and**  
 10 **at other times as the commission considers necessary.**

11           **Sec. 12. Each member of the commission is entitled to the**  
 12 **following:**

13           **(1) The salary per diem provided under IC 4-10-11-2.1(b).**

14           **(2) Reimbursement for traveling expenses as provided under**  
 15 **IC 4-13-1-4.**

16           **(3) Other expenses actually incurred in connection with the**  
 17 **member's duties as provided in the state policies and**  
 18 **procedures established by the Indiana department of**  
 19 **administration and approved by the budget agency.**

20           **Sec. 13. The legislative services agency shall provide**  
 21 **administrative support for the commission. At the request of the**  
 22 **legislative services agency, the state personnel department or the**  
 23 **Indiana judicial center established by IC 33-13-14-2 shall assign**  
 24 **staff to provide research and other support to assist the legislative**  
 25 **services agency in providing administrative support to the**  
 26 **commission.**

27           **Sec. 14. The legislative services agency may contract with**  
 28 **consultants on behalf of the commission as the commission**  
 29 **considers necessary to implement this chapter.**

30           **Sec. 15. Except as otherwise provided by this chapter, the**  
 31 **commission is subject to the rules of the legislative council.**

32           **Sec. 16. The commission shall make reports to the general**  
 33 **assembly as required by this chapter or by the legislative council.**

34           **Sec. 17. The commission shall meet at least one (1) time before**  
 35 **April 1 of each even-numbered year to do the following:**

36           **(1) Receive information relating to the salaries of public**  
 37 **officers.**

38           **(2) Consider recommendations for suitable salaries for public**  
 39 **officers.**

40           **(3) Take testimony relating to the salaries of public officers.**

41           **Sec. 18. (a) When determining a recommendation for a suitable**  
 42 **salary for a public officer, the commission may consider the**

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1 following:

- 2 (1) The responsibilities of the office.  
 3 (2) The educational background required or desired for an  
 4 individual who holds the office.  
 5 (3) The skills required or desired for the office.  
 6 (4) The experience required or desired for the office.  
 7 (5) The time required or desired to be spent to fulfill the  
 8 duties of the office.  
 9 (6) The opportunity or lack of opportunity that an individual  
 10 who holds the office has to earn other income.  
 11 (7) The salaries paid to government officers in other states  
 12 that have comparable duties and authority.  
 13 (8) Salaries paid to comparable professionals in the private  
 14 sector in Indiana and other comparable states based on the  
 15 responsibility and discretion required from or desired in an  
 16 individual who holds the office.  
 17 (9) The increase in the cost of living in Indiana since the most  
 18 recent increase in the salary of the public officer.  
 19 (10) Benefits other than salaries provided to public officers.  
 20 (11) Ability to attract and retain qualified individuals to be  
 21 public officers.  
 22 (12) The interests and welfare of the public.  
 23 (13) The financial ability of the state to meet the costs of  
 24 salaries recommended by the commission.  
 25 (14) Other factors the commission considers relevant.

26 (b) The commission may give the weight to the factors described  
 27 in subsection (a) that the commission considers appropriate.

28 (c) The commission may make recommendations to the general  
 29 assembly concerning benefits other than salaries.

30 Sec. 19. (a) The commission shall make written  
 31 recommendations to the:

- 32 (1) legislative council; and  
 33 (2) budget committee;

34 concerning suitable salaries for public officials not later than  
 35 September 1 of each even-numbered year.

36 (b) When making recommendations, the commission shall make  
 37 a separate recommendation, including a recommendation for no  
 38 adjustment of salary, for each separate public officer listed in  
 39 section 4 of this chapter.

40 Sec. 20. A commission recommendation does not take effect  
 41 unless enacted by the general assembly.

42 Sec. 21. A bill containing salary adjustments for public officers

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1       **may not contain salary adjustments both for public officers in the**  
 2       **executive branch and for public officers in the judicial branch.**

3       **Sec. 22. There is appropriated to the legislative services agency**  
 4       **from the state general fund money necessary for the operation of**  
 5       **the commission.**

6       SECTION 4. IC 5-10.2-4-3 IS AMENDED TO READ AS  
 7       FOLLOWS [EFFECTIVE JUNE 1, 2001]: Sec. 3. (a) Except as  
 8       provided in subsection ~~(e)~~ (f), in computing the retirement benefit for  
 9       a nonteacher member, "average of the annual compensation" means the  
 10      average annual compensation calculated using the twenty (20) calendar  
 11      quarters of service in a position covered by the retirement fund before  
 12      retirement in which the member's annual compensation was the  
 13      highest. However, in order for a quarter to be included in the twenty  
 14      (20) calendar quarters, the nonteacher member must have performed  
 15      service throughout the calendar quarter. All twenty (20) calendar  
 16      quarters do not have to be continuous but they must be in groups of  
 17      four (4) consecutive calendar quarters. The same calendar quarter may  
 18      not be included in two (2) different groups.

19      (b) **This subsection does not apply to a teacher member**  
 20      **described in subsection (c).** In computing the retirement benefit for a  
 21      teacher member, "average of the annual compensation" means the  
 22      average annual compensation for the five (5) years of service before  
 23      retirement in which the member's annual compensation was highest. In  
 24      order for a year to be included in the five (5) years, the teacher member  
 25      must have received for the year credit under IC 21-6.1-4-2 for at least  
 26      one-half (1/2) year of service. The five (5) years do not have to be  
 27      continuous.

28      (c) **This subsection applies to a member of the Indiana state**  
 29      **teachers' retirement fund who serves in an elected position for**  
 30      **which the member takes an unpaid leave of absence. In computing**  
 31      **the retirement benefit for a teacher member described in this**  
 32      **subsection for years of service to which IC 21-6.1-5-7.5 does not**  
 33      **apply, "average of the annual compensation" means the annual**  
 34      **compensation for the one (1) year of service before retirement in**  
 35      **which the member's annual compensation was highest. In order for**  
 36      **a year to be used, the teacher member must have received for the**  
 37      **year credit under IC 21-6.1-4-2 for at least one-half (1/2) year of**  
 38      **service.**

39      (d) Subject to IC 5-10.2-2-1.5 "annual compensation" means:

40          (1) the basic salary earned by and paid to the member plus the  
 41          amount that would have been part of that salary but for:

42          (†) (A) the state's, a school corporation's, a participating

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1 political subdivision's, or a state educational institution's (as  
2 defined in IC 20-12-0.5-1) paying the member's contribution  
3 to the fund for the member; or

4 ~~(2)~~ **(B)** the member's salary reduction agreement established  
5 under Section 125, 403(b), or 457 of the Internal Revenue  
6 Code; **and**

7 **(2) in the case of a member described in subsection (c) and for**  
8 **years of service to which IC 21-6.1-5-7.5 does not apply, the**  
9 **basic salary that was not paid during the year but would have**  
10 **been paid to the member during the year under the member's**  
11 **employment contracts if the member had not taken any**  
12 **unpaid leave of absence to serve in an elected position.**

13 The portion of a back pay award or a similar award that the board  
14 determines is compensation under an agreement or under a judicial or  
15 an administrative proceeding shall be allocated by the board among the  
16 years the member earned or should have earned the compensation.  
17 Only that portion of the award allocated to the year the award is made  
18 is considered to have been earned during the year the award was made.  
19 Interest on an award is not considered annual compensation for any  
20 year.

21 ~~(d)~~ **(e)** Compensation of no more than two thousand dollars (\$2,000)  
22 received from the employer in contemplation of the member's  
23 retirement, including severance pay, termination pay, retirement bonus,  
24 or commutation of unused sick leave or personal leave, may be  
25 included in the total annual compensation from which the average of  
26 the annual compensation is determined, if it is received:

27 (1) before the member ceases service; or

28 (2) within twelve (12) months after the member ceases service.

29 ~~(e)~~ **(f)** This section applies to a member of the general assembly:

30 (1) who is a participant in the legislators' retirement system  
31 established under IC 2-3.5;

32 (2) who is also a member of the public employees' retirement fund  
33 or the state teachers' retirement fund; and

34 (3) whose years of service in the general assembly may not be  
35 considered in determining the average of the annual  
36 compensation under this section, as provided in  
37 IC 2-3.5-1-2(b)(2) or IC 2-3.5-3-1(c).

38 The board shall use the board's actuarial salary increase assumption to  
39 project the salary for any previous year needed to determine the  
40 average of the annual compensation.

41 SECTION 5. IC 33-13-12-7.1 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 7.1. (a) The total

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1 annual salary of each full-time judge of a circuit, superior, municipal,  
 2 county, or probate court is ~~ninety~~ **ninety-nine** thousand dollars  
 3 ~~(\$90,000) and (\$99,000) plus~~ any additional salary provided under  
 4 IC 36-2-5-14 or IC 36-3-6-3(c). The state shall pay all of the total  
 5 salary except for the additional salary, if any, under IC 36-2-5-14 or  
 6 IC 36-3-6-3(c). The state shall deposit quarterly the money received  
 7 from the counties under subsection (c) in the state general fund.

8 (b) Before November 2 of each year, the county auditor of each  
 9 county shall certify to the division of state court administration the  
 10 amounts, if any, to be provided by the county during the ensuing  
 11 calendar year for judges' salaries under IC 36-2-5-14 or IC 36-3-6-3(c).

12 (c) When making each payment under subsection (a), the county  
 13 shall determine for each judge whether the total of:

- 14 (1) the payment made on behalf of that judge;
- 15 (2) previous payments made on behalf of that judge in the same  
 16 calendar year; and

17 (3) the state share of the judge's salary under subsection (a);  
 18 exceeds the Social Security wage base established by the federal  
 19 government for that year. If the total does not exceed the Social  
 20 Security wage base, the payment on behalf of that judge must also be  
 21 accompanied by an amount equal to the employer's share of Social  
 22 Security taxes and Medicare taxes. If the total does exceed the Social  
 23 Security wage base, the part of the payment on behalf of the judge that  
 24 is below the Social Security wage base must be accompanied by an  
 25 amount equal to the employer's share of Social Security taxes and  
 26 Medicare taxes, and the part of the payment on behalf of the judge that  
 27 exceeds the Social Security wage base must be accompanied by an  
 28 amount equal to the employer's share of Medicare taxes. Payments  
 29 made under this subsection shall be deposited in the state general fund  
 30 under subsection (a).

31 (d) For purposes of determining the amount of life insurance  
 32 premiums to be paid by a judge who participates in a life insurance  
 33 program that:

- 34 (1) is established by the state;
- 35 (2) applies to a judge who is covered by this section; and
- 36 (3) bases the amount of premiums to be paid by the judge on the  
 37 amount of the judge's salary;

38 the judge's salary does not include any amounts paid to the state by a  
 39 county under subsection (a).

40 SECTION 6. IC 33-13-12-9 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 9. (a) The total  
 42 annual salary for each justice of the supreme court of Indiana is one

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1 hundred ~~fifteen~~ **twenty-four** thousand dollars (~~\$115,000~~). **(\$124,000)**.

2 (b) The total annual salary for each judge of the court of appeals of  
3 Indiana is one hundred ~~ten~~ **nineteen** thousand dollars (~~\$110,000~~).  
4 **(\$119,000)**.

5 (c) The state shall pay the annual salaries prescribed in subsections  
6 (a) through (b) from the state general fund.

7 (d) In addition to said salary, there shall be paid in equal monthly  
8 payments on the first day of each month out of any money in the  
9 general fund of the state treasury not otherwise appropriated, the  
10 following annual subsistence allowances to assist in defraying expenses  
11 relating to or resulting from the discharge of the justice's or judge's  
12 official duties, for which no accounting shall be made by such judge:

13 (1) Five thousand five hundred dollars (\$5,500) to the chief  
14 justice of the supreme court.

15 (2) Five thousand five hundred dollars (\$5,500) to the chief judge  
16 of the court of appeals.

17 (3) Three thousand dollars (\$3,000) to each justice of the supreme  
18 court who is not the chief justice.

19 (4) Three thousand dollars (\$3,000) to each judge of the court of  
20 appeals who is not the chief judge.

21 (e) The state shall not furnish automobiles for the use of justices or  
22 judges compensated under this section.

23 SECTION 7. IC 33-19-5-1 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) For each action  
25 that results in a felony conviction under IC 35-50-2 or a misdemeanor  
26 conviction under IC 35-50-3, the clerk shall collect from the defendant  
27 a criminal costs fee of one hundred twenty dollars (\$120).

28 (b) In addition to the criminal costs fee collected under this section,  
29 the clerk shall collect from the defendant the following fees if they are  
30 required under IC 33-19-6:

31 (1) A document fee.

32 (2) A marijuana eradication program fee.

33 (3) An alcohol and drug services program user fee.

34 (4) A law enforcement continuing education program fee.

35 (5) A drug abuse, prosecution, interdiction, and correction fee.

36 (6) An alcohol and drug countermeasures fee.

37 (7) A child abuse prevention fee.

38 (8) A domestic violence prevention and treatment fee.

39 (9) A highway work zone fee.

40 (10) A deferred prosecution fee (IC 33-19-6-16.2).

41 **(11) A judicial salaries fee (IC 33-19-6-18).**

42 (c) Instead of the criminal costs fee prescribed by this section, the

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1 clerk shall collect a pretrial diversion program fee if an agreement  
2 between the prosecuting attorney and the accused person entered into  
3 under IC 33-14-1-7 requires payment of those fees by the accused  
4 person. The pretrial diversion program fee is:

- 5 (1) an initial user's fee of fifty dollars (\$50); and
- 6 (2) a monthly user's fee of ten dollars (\$10) for each month that  
7 the person remains in the pretrial diversion program.

8 (d) The clerk shall transfer to the county auditor or city or town  
9 fiscal officer the following fees, within thirty (30) days after they are  
10 collected, for deposit by the auditor or fiscal officer in the appropriate  
11 user fee fund established under IC 33-19-8:

- 12 (1) The pretrial diversion fee.
- 13 (2) The marijuana eradication program fee.
- 14 (3) The alcohol and drug services program user fee.
- 15 (4) The law enforcement continuing education program fee.

16 (e) Unless otherwise directed by a court, if a clerk collects only part  
17 of a criminal costs fee from a defendant under this section, the clerk  
18 shall distribute the partial payment of the criminal costs fee as follows:

- 19 (1) First, the clerk shall apply the partial payment to general court  
20 costs.
- 21 (2) Second, if there is money remaining after the partial payment  
22 is applied to general court costs under subdivision (1), the clerk  
23 shall distribute the partial payment for deposit in the appropriate  
24 county user fee fund.
- 25 (3) Third, if there is money remaining after distribution under  
26 subdivision (2), the clerk shall distribute the partial payment for  
27 deposit in the state user fee fund.
- 28 (4) Fourth, if there is money remaining after distribution under  
29 subdivision (3), the clerk shall distribute the partial payment to  
30 any other applicable user fee fund.
- 31 (5) Fifth, if there is money remaining after distribution under  
32 subdivision (4), the clerk shall apply the partial payment to any  
33 outstanding fines owed by the defendant.

34 SECTION 8. IC 33-19-5-2 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) Except as  
36 provided in subsections (d) and (e), for each action that results in a  
37 judgment:

- 38 (1) for a violation constituting an infraction; or
- 39 (2) for a violation of an ordinance of a municipal corporation (as  
40 defined in IC 36-1-2-10);

41 the clerk shall collect from the defendant an infraction or ordinance  
42 violation costs fee of seventy dollars (\$70).

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1 (b) In addition to the infraction or ordinance violation costs fee  
2 collected under this section, the clerk shall collect from the defendant  
3 the following fees if they are required under IC 33-19-6:

- 4 (1) A document fee.
- 5 (2) An alcohol and drug services program user fee.
- 6 (3) A law enforcement continuing education program fee.
- 7 (4) An alcohol and drug countermeasures fee.
- 8 (5) A highway work zone fee.
- 9 (6) A deferred prosecution fee (IC 33-19-6-16.2).

10 **(7) A judicial salaries fee (IC 33-19-6-18).**

11 (c) The clerk shall transfer to the county auditor or fiscal officer of  
12 the municipal corporation the following fees, within thirty (30) days  
13 after they are collected, for deposit by the auditor or fiscal officer in the  
14 user fee fund established under IC 33-19-8:

- 15 (1) The alcohol and drug services program user fee.
- 16 (2) The law enforcement continuing education program fee.
- 17 (3) The deferral program fee.

18 (d) The defendant is not liable for any ordinance violation costs fee  
19 in an action in which:

- 20 (1) the defendant was charged with an ordinance violation subject  
21 to IC 33-6-3;
- 22 (2) the defendant denied the violation under IC 33-6-3-2;
- 23 (3) proceedings in court against the defendant were initiated  
24 under IC 34-28-5 (or IC 34-4-32 before its repeal); and
- 25 (4) the defendant was tried and the court entered judgment for the  
26 defendant for the violation.

27 (e) Instead of the infraction or ordinance violation costs fee  
28 prescribed by subsection (a), the clerk shall collect a deferral program  
29 fee if an agreement between a prosecuting attorney or an attorney for  
30 a municipal corporation and the person charged with a violation  
31 entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal)  
32 requires payment of those fees by the person charged with the  
33 violation. The deferral program fee is:

- 34 (1) an initial user's fee not to exceed fifty-two dollars (\$52); and
- 35 (2) a monthly user's fee not to exceed ten dollars (\$10) for each  
36 month the person remains in the deferral program.

37 SECTION 9. IC 33-19-5-3 IS AMENDED TO READ AS  
38 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) For each action  
39 filed under:

- 40 (1) IC 31-34 or IC 31-37 (delinquent children and children in  
41 need of services); or
- 42 (2) IC 31-14 (paternity);

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1 the clerk shall collect a juvenile costs fee of one hundred twenty dollars  
2 (\$120).

3 (b) In addition to the juvenile costs fee collected under this section,  
4 the clerk shall collect the following fees if they are required under  
5 IC 33-19-6:

- 6 (1) A document fee.
- 7 (2) A marijuana eradication program fee.
- 8 (3) An alcohol and drug services program user fee.
- 9 (4) A law enforcement continuing education program fee.
- 10 (5) An alcohol and drug countermeasures fee.

11 **(6) A judicial salaries fee (IC 33-19-6-18).**

12 (c) The clerk shall transfer to the county auditor or city or town  
13 fiscal officer the following fees, within thirty (30) days after they are  
14 collected, for deposit by the auditor or fiscal officer in the appropriate  
15 user fee fund established under IC 33-19-8:

- 16 (1) The marijuana eradication program fee.
- 17 (2) The alcohol and drug services program user fee.
- 18 (3) The law enforcement continuing education program fee.

19 SECTION 10. IC 33-19-5-4 IS AMENDED TO READ AS  
20 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) For each civil  
21 action except:

- 22 (1) proceedings to enforce a statute defining an infraction under
- 23 IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);
- 24 (2) proceedings to enforce an ordinance under IC 34-28-5-4 (or
- 25 IC 34-4-32-4 before its repeal);
- 26 (3) proceedings in juvenile court under IC 31-34 or IC 31-37;
- 27 (4) proceedings in paternity under IC 31-14;
- 28 (5) proceedings in small claims court under IC 33-11.6; and
- 29 (6) proceedings in actions under section 6 of this chapter;

30 the clerk shall collect from the party filing the action a civil costs fee  
31 of one hundred dollars (\$100), except as provided in subsection (b).

32 (b) For each proceeding for the issuance of a protective order under  
33 IC 34-26-2:

- 34 (1) the clerk shall initially collect thirty-five dollars (\$35) of the
- 35 civil costs fee from the party that filed the action or the court may
- 36 waive the initial thirty-five dollars (\$35) of the civil costs fee for
- 37 the party that filed the action; and
- 38 (2) upon disposition of the protective order petition under
- 39 IC 34-26-2, the court may order that:
- 40 (A) the remainder of the civil costs fee, in the amount of
- 41 sixty-five dollars (\$65), be assessed against the respondent in
- 42 the action as provided in IC 34-26-2-4 or against the party that

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1 filed the action; and  
 2 (B) the initial thirty-five dollar (\$35) civil costs fee be  
 3 reimbursed by the respondent in the action to the party that  
 4 filed the action or assessed against the respondent in the action  
 5 as provided in IC 34-26-2-4.

6 (c) In addition to the civil costs fee collected under this section, the  
 7 clerk shall collect the following fees if they are required under  
 8 IC 33-19-6:

- 9 (1) A document fee.
- 10 (2) A support and maintenance fee.
- 11 **(3) A judicial salaries fee (IC 33-19-6-18).**

12 SECTION 11. IC 33-19-5-5 IS AMENDED TO READ AS  
 13 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) For each small  
 14 claims action the clerk shall collect from the party filing the action a  
 15 small claims costs fee of thirty-five dollars (\$35).

16 (b) In addition to a small claims costs fee collected under this  
 17 section, the clerk shall collect ~~a document fee~~ **the following fees** if it  
 18 **is they are** required under IC 33-19-6:

- 19 **(1) A document fee.**
- 20 **(2) A judicial salaries fee (IC 33-19-6-18).**

21 SECTION 12. IC 33-19-5-6 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) Except as  
 23 provided under subsection (c), for each action filed under:

- 24 (1) IC 6-4.1-5 (determination of inheritance tax);
- 25 (2) IC 29 (probate); and
- 26 (3) IC 30 (trusts and fiduciaries);

27 the clerk shall collect from the party filing the action a probate costs fee  
 28 of one hundred twenty dollars (\$120).

29 (b) In addition to the probate costs fee collected under this section,  
 30 the clerk shall collect from the party filing the action ~~a document fee~~  
 31 **the following fees** if it **is they are** required under IC 33-19-6:

- 32 **(1) A document fee.**
- 33 **(2) A judicial salaries fee (IC 33-19-6-18).**

34 (c) A clerk may not collect a court costs fee for the filing of the  
 35 following exempted actions:

- 36 (1) Petition to open a safety deposit box.
- 37 (2) Filing an inheritance tax return, unless proceedings other than  
 38 the court's approval of the return become necessary.
- 39 (3) Offering a will for probate under IC 29-1-7, unless  
 40 proceedings other than admitting the will to probate become  
 41 necessary.

42 SECTION 13. IC 33-19-6-18 IS ADDED TO THE INDIANA

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1 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 2 [EFFECTIVE JULY 1, 2001]: **Sec. 18. (a) This subsection does not**  
 3 **apply to the following:**

- 4 (1) A criminal proceeding.  
 5 (2) A proceeding for an infraction violation.  
 6 (3) A proceeding for an ordinance violation.

7 **In each action filed in a court described in IC 33-19-1-1, the clerk**  
 8 **shall collect a judicial salaries fee of six dollars (\$6).**

9 **(b) In each action in which a person is:**

- 10 (1) convicted of an offense;  
 11 (2) required to pay a pretrial diversion fee;  
 12 (3) found to have violated an infraction; or  
 13 (4) found to have violated an ordinance;

14 **the clerk shall collect a judicial salaries fee of six dollars (\$6).**

15 SECTION 14. IC 33-19-7-1 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) The clerk of a  
 17 circuit court shall semiannually distribute to the auditor of state as the  
 18 state share for deposit in the state general fund seventy percent (70%)  
 19 of the amount of fees collected under the following:

- 20 (1) IC 33-19-5-1(a) (criminal costs fees).  
 21 (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).  
 22 (3) IC 33-19-5-3(a) (juvenile costs fees).  
 23 (4) IC 33-19-5-4(a) (civil costs fees).  
 24 (5) IC 33-19-5-5(a) (small claims costs fees).  
 25 (6) IC 33-19-5-6(a) (probate costs fees).  
 26 (7) IC 33-19-6-16.2 (deferred prosecution fees).

27 (b) The clerk of a circuit court shall semiannually distribute to the  
 28 auditor of state for deposit in the state user fee fund established under  
 29 IC 33-19-9-2 the following:

- 30 (1) Twenty-five percent (25%) of the drug abuse, prosecution,  
 31 interdiction, and correction fees collected under  
 32 IC 33-19-5-1(b)(5).  
 33 (2) Twenty-five percent (25%) of the alcohol and drug  
 34 countermeasures fees collected under IC 33-19-5-1(b)(6),  
 35 IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).  
 36 (3) Fifty percent (50%) of the child abuse prevention fees  
 37 collected under IC 33-19-5-1(b)(7).  
 38 (4) One hundred percent (100%) of the domestic violence  
 39 prevention and treatment fees collected under IC 33-19-5-1(b)(8).  
 40 (5) One hundred percent (100%) of the highway work zone fees  
 41 collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).  
 42 (6) One hundred percent (100%) of the safe schools fee collected

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1 under IC 33-19-6-16.3.

2 (c) The clerk of a circuit court shall monthly distribute to the county  
3 auditor the following:

4 (1) Seventy-five percent (75%) of the drug abuse, prosecution,  
5 interdiction, and correction fees collected under  
6 IC 33-19-5-1(b)(5).

7 (2) Seventy-five percent (75%) of the alcohol and drug  
8 countermeasures fees collected under IC 33-19-5-1(b)(6),  
9 IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

10 The county auditor shall deposit fees distributed by a clerk under this  
11 subsection into the county drug free community fund established under  
12 IC 5-2-11.

13 (d) The clerk of a circuit court shall monthly distribute to the county  
14 auditor fifty percent (50%) of the child abuse prevention fees collected  
15 under IC 33-19-5-1(b)(8). The county auditor shall deposit fees  
16 distributed by a clerk under this subsection into the county child  
17 advocacy fund established under IC 12-17-17.

18 **(e) The clerk of a circuit court shall semiannually distribute to**  
19 **the auditor of state for deposit in the state general fund one**  
20 **hundred percent (100%) of the judicial salaries fee.**

21 SECTION 15. IC 33-19-7-4 IS AMENDED TO READ AS  
22 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The clerk of a  
23 city or town court shall semiannually distribute to the auditor of state  
24 as the state share for deposit in the state general fund fifty-five percent  
25 (55%) of the amount of fees collected under the following:

26 (1) IC 33-19-5-1(a) (criminal costs fees).  
27 (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).  
28 (3) IC 33-19-5-4(a) (civil costs fees).  
29 (4) IC 33-19-5-5 (small claims costs fees).  
30 (5) IC 33-19-6-16.2 (deferred prosecution fees).

31 (b) Once each month the city or town fiscal officer shall distribute  
32 to the county auditor as the county share twenty percent (20%) of the  
33 amount of fees collected under the following:

34 (1) IC 33-19-5-1(a) (criminal costs fees).  
35 (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).  
36 (3) IC 33-19-5-4(a) (civil costs fees).  
37 (4) IC 33-19-5-5 (small claims costs fees).  
38 (5) IC 33-19-6-16.2 (deferred prosecution fees).

39 (c) The city or town fiscal officer shall retain twenty-five percent  
40 (25%) as the city or town share of the fees collected under the  
41 following:

42 (1) IC 33-19-5-1(a) (criminal costs fees).

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- 1 (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- 2 (3) IC 33-19-5-4(a) (civil costs fees).
- 3 (4) IC 33-19-5-5 (small claims costs fees).
- 4 (5) IC 33-19-6-16.2 (deferred prosecution fees).

5 (d) The clerk of a city or town court shall semiannually distribute to  
 6 the auditor of state for deposit in the state user fee fund established  
 7 under IC 33-19-9 the following:

- 8 (1) Twenty-five percent (25%) of the drug abuse, prosecution,  
 9 interdiction, and corrections fees collected under  
 10 IC 33-19-5-1(b)(5).
- 11 (2) Twenty-five percent (25%) of the alcohol and drug  
 12 countermeasures fees collected under IC 33-19-5-1(b)(6),  
 13 IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).
- 14 (3) One hundred percent (100%) of the highway work zone fees  
 15 collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).
- 16 (4) One hundred percent (100%) of the safe schools fee collected  
 17 under IC 33-19-6-16.3.

18 (e) The clerk of a city or town court shall monthly distribute to the  
 19 county auditor the following:

- 20 (1) Seventy-five percent (75%) of the drug abuse, prosecution,  
 21 interdiction, and corrections fees collected under  
 22 IC 33-19-5-1(b)(5).
- 23 (2) Seventy-five percent (75%) of the alcohol and drug  
 24 countermeasures fees collected under IC 33-19-5-1(b)(6),  
 25 IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

26 The county auditor shall deposit fees distributed by a clerk under this  
 27 subsection into the county drug free community fund established under  
 28 IC 5-2-11.

29 **(f) The clerk of a city or town court shall semiannually**  
 30 **distribute to the auditor of state for deposit in the state general**  
 31 **fund one hundred percent (100%) of the judicial salaries fee.**

32 SECTION 16. IC 33-19-7-5 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) On June 30 and  
 34 on December 31 of each year, the auditor of state shall transfer to the  
 35 treasurer of state six million ~~seven hundred four~~ **eight hundred**  
 36 **ninety-nine** thousand ~~two~~ **four** hundred ~~fifty-seven~~ **thirty-one** dollars  
 37 ~~(\$6,704,257)~~ **(\$6,899,431)** for distribution under subsection (b).

38 (b) On June 30 and on December 31 of each year the treasurer of  
 39 state shall deposit into:

- 40 (1) the family violence and victim assistance fund established  
 41 under IC 12-18-5-2 an amount equal to ~~eleven ten and~~  
 42 ~~eight hundredths~~ **seventy-seven hundredths** percent ~~(11.08%)~~;

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- 1           **(10.77%);**  
 2           (2) the Indiana judges' retirement fund established under  
 3           IC 33-13-8 an amount equal to ~~twenty-five~~ **twenty-seven** and  
 4           ~~twenty-one~~ **twenty-nine** hundredths percent (~~25.21%~~); **(27.29%);**  
 5           (3) the law enforcement academy building fund established under  
 6           IC 5-2-1-13 an amount equal to three and ~~fifty-two~~ **forty-three**  
 7           hundredths percent (~~3.52%~~); **(3.43%);**  
 8           (4) the law enforcement training fund established under  
 9           IC 5-2-1-13 an amount equal to ~~fourteen~~ **thirteen** and  
 10           ~~nineteen-hundredths~~ **seventy-nine hundredths** percent (~~14.19%~~);  
 11           **(13.79%);**  
 12           (5) the violent crime victims compensation fund established under  
 13           IC 5-2-6.1-40 an amount equal to sixteen and ~~fifty-hundredths~~  
 14           **four hundredths** percent (~~16.50%~~); **(16.04%);**  
 15           (6) the motor vehicle highway account an amount equal to  
 16           twenty-six and ~~ninety-five~~ **nineteen** hundredths percent (~~26.95%~~);  
 17           **(26.19%);**  
 18           (7) the fish and wildlife fund established by IC 14-22-3-2 an  
 19           amount equal to thirty-two hundredths of one percent (0.32%);  
 20           and  
 21           (8) the Indiana judicial center drug and alcohol programs fund  
 22           established under IC 12-23-14-17 for the administration,  
 23           certification, and support of alcohol and drug services programs  
 24           under IC 12-23-14 an amount equal to two and ~~twenty-three~~  
 25           **seventeen** hundredths percent (~~2.23%~~); **(2.17%);**  
 26           of the amount transferred by the auditor of state under subsection (a).  
 27           (c) On June 30 and on December 31 of each year the auditor of state  
 28           shall transfer to the treasurer of state one million two hundred thousand  
 29           dollars (\$1, 200,000) for deposit into the public defense fund  
 30           established under IC 33-9-14.  
 31           SECTION 17. [EFFECTIVE UPON PASSAGE] **(a) As used in this**  
 32           **SECTION, "commission" refers to the public officers**  
 33           **compensation commission established by IC 2-5-1.5-5, as added by**  
 34           **this act.**  
 35           **(b) The appointing authorities shall appoint the commission**  
 36           **members not later than July 1, 2001.**  
 37           **(c) Notwithstanding IC 2-5-1.5-7, as added by this act, the term**  
 38           **of a commission member appointed under subsection (b) expires as**  
 39           **follows:**  
 40           **(1) The term of a member appointed by the speaker of the**  
 41           **house of representatives expires as follows:**  
 42           **(A) The term of one (1) member expires July 1, 2004.**

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**(B) The term of one (1) member expires July 1, 2003.**  
When making an appointment under this subdivision, the speaker shall state, subject to this subdivision, the date when the term of the member expires.

**(2) The term of a member appointed by the president pro tempore of the senate expires as follows:**

**(A) The term of one (1) member expires July 1, 2004.**

**(B) The term of one (1) member expires July 1, 2003.**

When making an appointment under this subdivision, the president pro tempore shall state, subject to this subdivision, the date when the term of the member expires.

**(3) The term of a member appointed by the governor expires as follows:**

**(A) The term of one (1) member expires July 1, 2004.**

**(B) The term of one (1) member expires July 1, 2002.**

When making an appointment under this subdivision, the governor shall state, subject to this subdivision, the date when the term of the member expires.

**(4) The term of a member appointed by the chief justice of the supreme court of Indiana expires as follows:**

**(A) The term of one (1) member expires July 1, 2003.**

**(B) The term of one (1) member expires July 1, 2002.**

When making an appointment under this subdivision, the chief justice shall state, subject to this subdivision, the date when the term of the member expires.

**(5) The term of the member appointed by the chief judge of the court of appeals of Indiana expires July 1, 2002.**

**(d) Notwithstanding IC 2-5-1.5-7, as added by this act, the term of a commission member begins the day the member accepts the member's appointment.**

**(e) This SECTION expires July 1, 2004.**

**SECTION 18. [EFFECTIVE JUNE 1, 2001] IC 5-10.2-4-3, as amended by this act, applies only to members of the Indiana state teachers' retirement fund who retire after May 31, 2001.**

**SECTION 19. [EFFECTIVE UPON PASSAGE] Notwithstanding IC 1-1-1-8, the provisions of this act are not severable.**

**SECTION 20. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures, to which was referred House Bill 1856, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB1856 as introduced.)

MOSES, Chair

Committee Vote: yeas 7, nays 1.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1856 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

Page 1, Line 2 delete [EFFECTIVE JANUARY 1, 2002] and insert [EFFECTIVE JANUARY 1, 2003]

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COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred House Bill 1856, begs leave to report that said bill has been amended as directed.

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