



January 29, 2020

SENATE BILL No. 268

DIGEST OF SB 268 (Updated January 28, 2020 11:43 am - DI 132)

Citations Affected: IC 8-23; IC 9-21; IC 33-37.

Synopsis: Automated traffic control in construction zones. Authorizes the Indiana department of transportation to establish an automated traffic control system pilot program to enforce highway worksite speed limits. Provides that a worksite speed limit violation recorded by an automated traffic control system may not be assessed a civil penalty unless the violation is at least 11 miles per hour above the established worksite speed limit. Replaces the term "work zone" with "worksite" throughout the relevant statutes.

Effective: July 1, 2020.

Ford Jon

January 9, 2020, read first time and referred to Committee on Homeland Security and Transportation.
January 28, 2020, amended, reported favorably — Do Pass.

SB 268—LS 6566/DI 92



January 29, 2020

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

SENATE BILL No. 268

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

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

- 1 SECTION 1. IC 8-23-2-15, AS AMENDED BY P.L.217-2014,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 15. (a) As used in this section, "highway ~~work~~
4 ~~zone~~ **worksite**" means an area where:
5 (1) highway construction, reconstruction, or maintenance is
6 actually occurring; and
7 (2) notice is posted indicating that the highway ~~work zone~~
8 **worksite** is a specific area designated with signage on the
9 highway.
10 (b) The department may contract with the state police department
11 or local law enforcement agencies to hire off duty police officers to
12 patrol highway ~~work zones~~: **worksites**. The duties of a police officer
13 who is hired under this section:
14 (1) are limited to those duties that the police officer normally
15 performs while on active duty; and
16 (2) do not include the duties of a:
17 (A) flagman; or

SB 268—LS 6566/DI 92



- 1 (B) security officer.
- 2 (c) The department shall use the money transferred to the
- 3 department under IC 33-37-9-4(a)(6) to pay the costs of hiring off duty
- 4 police officers to perform the duties described in subsection (b).
- 5 (d) All money transferred to the department under
- 6 IC 33-37-9-4(a)(6) is annually appropriated to pay off duty police
- 7 officers to perform the duties described in subsection (b).

8 SECTION 2. IC 8-23-32 IS ADDED TO THE INDIANA CODE AS

9 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY

10 1, 2020]:

11 **Chapter 32. Automated Traffic Control System Pilot Program**

12 **to Monitor Worksite Speed Limits**

13 **Sec. 1. (a) This chapter does not apply to a road or bridge**

14 **maintained by or under a contract with the Indiana finance**

15 **authority.**

16 **(b) This chapter applies only to a part of a road or bridge on the**

17 **interstate system (as defined by IC 8-23-1-25) or a U.S. route.**

18 **Sec. 2. As used in this chapter, "automated traffic control**

19 **system" means a photographic device, radar device, laser device,**

20 **or other electrical or mechanical device or devices designed to:**

- 21 (1) record the speed of a motor vehicle; and
- 22 (2) obtain a clear photograph or other recorded image of the
- 23 rear of the motor vehicle and the license plate affixed to the
- 24 motor vehicle at the time the recorded speed of the motor
- 25 vehicle exceeds a speed limit established under IC 9-21-5-11.

26 **Sec. 3. As used in this chapter, "motor vehicle rental company"**

27 **means a person that routinely engages in the business of renting**

28 **motor vehicles for periods of not more than thirty (30) days.**

29 **Sec. 4. As used in this chapter, "owner" means a person in**

30 **whose name a motor vehicle is registered under any of the**

31 **following:**

- 32 (1) IC 9-18.1.
- 33 (2) The law of another state.
- 34 (3) The law of a foreign country.
- 35 (4) The International Registration Plan.

36 **Sec. 5. As used in this chapter, "worksite" means any part of a**

37 **road or bridge on the interstate system (as defined by IC 8-23-1-25)**

38 **or a U.S. route on which the department has established a speed**

39 **limit under IC 9-21-5-11.**

40 **Sec. 6. (a) The department may establish an automated traffic**

41 **control system pilot program in a worksite. However, the**

42 **department may operate an automated traffic control system**



1 installed under this subsection only when workers are present in
2 the worksite.

3 (b) The department may enter into an agreement with a third
4 party vendor to assist in the administration of this chapter.

5 (c) The burden of proving that workers were present at the time
6 an automated traffic control system recorded the speed of the
7 motor vehicle exceeding a speed limit established under
8 IC 9-21-5-11 is on the department in an administrative review
9 under IC 4-21.5.

10 (d) The department may purchase and operate no more than
11 four (4) automated traffic control systems under this chapter.

12 (e) No more than four (4) worksites may be monitored in any
13 single calendar year.

14 Sec. 7. If the department establishes an automated traffic
15 control system under section 6 of this chapter, the department shall
16 do the following:

17 (1) Conduct a public information campaign to inform drivers
18 about the use of an automated traffic control system to detect
19 speeds in excess of a worksite speed limit before implementing
20 the automated traffic control system.

21 (2) Post signs indicating that worksite speed limits are
22 monitored through an automated traffic control system
23 before the entrance to any worksite in which an automated
24 traffic control system is in use.

25 (3) Limit the operation of an automated traffic control system
26 to areas where workers are present and highway construction
27 or maintenance is occurring.

28 Sec. 8. (a) An automated traffic control system may not be used
29 to take a photograph or recorded image of the front of a motor
30 vehicle.

31 (b) A front view photograph or recorded image obtained
32 through the use of an automated traffic control system may not be
33 used as evidence in any hearing under IC 4-21.5.

34 Sec. 9. (a) A photograph or recorded image obtained through
35 the use of an automated traffic control system may not be used as
36 evidence in any action other than the action to collect a worksite
37 speed limit civil penalty for which the photograph or recorded
38 image was obtained.

39 (b) A photograph or recorded image obtained through the use
40 of an automated traffic control system may be used internally to
41 administer the automated traffic control system. However, unless
42 authorized by court order, a photograph or recorded image



1 obtained through the use of an automated traffic control system
2 may not be disclosed to anyone other than:

- 3 (1) the owner of the motor vehicle at the time the recorded
4 speed of the motor vehicle exceeded a speed limit established
5 under IC 9-21-5-11;
6 (2) the individual alleged to have been operating the motor
7 vehicle at the time the worksite speed limit was exceeded as
8 described in subdivision (1);
9 (3) an attorney representing an individual described in
10 subdivision (1) or (2);
11 (4) a law enforcement officer;
12 (5) the department;
13 (6) a person administering the automated traffic control
14 system; and
15 (7) the court in a proceeding for judicial review under
16 IC 4-21.5.

17 **Sec. 10. (a)** Except as provided in section 13 of this chapter, the
18 owner of a motor vehicle identified through an automated traffic
19 control system is liable for the civil penalty described in section 11
20 of this chapter for exceeding a speed limit established under
21 IC 9-21-5-11.

22 (b) There is a rebuttable presumption that the owner of a motor
23 vehicle that is the subject of a photograph or recorded image was
24 operating the motor vehicle when the photograph or recorded
25 image was obtained through an automated traffic control system.
26 The presumption does not apply to the owner of a motor vehicle
27 that is the subject of a photograph or recorded image if the owner
28 of the motor vehicle is a motor vehicle rental company.

29 (c) The owner of a motor vehicle, including a motor vehicle
30 rental company, may submit the information described in section
31 13 of this chapter to rebut the presumption created by subsection
32 (b).

33 (d) It is a defense under this section if any of the following
34 apply:

- 35 (1) The person receiving a notice under section 12 of this
36 chapter was not the owner of the motor vehicle and was not
37 driving the vehicle at the time that the worksite speed limit
38 was exceeded.
39 (2) The vehicle was reported stolen prior to the time that the
40 worksite speed limit was exceeded and was not recovered
41 prior to that time.
42 (3) The automated traffic control system was not properly



1 tested for accuracy, certification, or calibration.

2 (4) No workers were present in the worksite at the time that
3 the worksite speed limit was exceeded.

4 Sec. 11. (a) This section does not apply to a person who has been
5 charged with an infraction for a violation of IC 9-21-5-11.

6 (b) The department shall assess a civil penalty on a person who
7 exceeds the speed limit prescribed by IC 9-21-5-11 if the automated
8 traffic control system indicates that the operator of a motor vehicle
9 has exceeded the worksite speed limit by at least eleven (11) miles
10 per hour.

11 (c) A person who exceeds a worksite speed limit established
12 under IC 9-21-5-11 that is detected under this chapter is subject to
13 the following civil penalties:

14 (1) A written warning for the first time that the person
15 exceeds a worksite speed limit detected under this chapter.

16 (2) A civil penalty of seventy-five dollars (\$75) for the second
17 time that the person exceeds a worksite speed limit detected
18 under this chapter.

19 (3) A civil penalty of one hundred fifty dollars (\$150) for the
20 third and each subsequent time that the person exceeds a
21 worksite speed limit detected under this chapter.

22 (d) A civil penalty collected under this section shall be deposited
23 in the state general fund.

24 (e) A person assessed a civil penalty under this section is not
25 liable for an infraction for a violation of IC 9-21-5-11.

26 Sec. 12. A person identified as the owner of the motor vehicle at
27 the time an automated traffic control system indicated that the
28 speed of the motor vehicle exceeded a speed limit established under
29 IC 9-21-5-11 is entitled to notice of the violation by first class mail
30 postmarked not later than fourteen (14) days after the date of the
31 alleged violation. The notice must include the following
32 information:

33 (1) The name and address of the owner of the motor vehicle.

34 (2) The license plate number of the motor vehicle.

35 (3) A statement informing the person that an automated
36 traffic control system indicated that the motor vehicle
37 exceeded a speed limit established under IC 9-21-5-11.

38 (4) The location of where the worksite speed limit was
39 exceeded.

40 (5) The date and time when the worksite speed limit was
41 exceeded.

42 (6) A copy of, and information on how to view through



1 electronic means, the photograph or recorded image of the
2 moment when the worksite speed limit was exceeded.

3 (7) The amount of the civil penalty.

4 (8) The date by which the civil penalty must be paid if the
5 owner of the motor vehicle does not desire to request an
6 administrative review under IC 4-21.5. The civil penalty must
7 be paid not later than thirty (30) days after the date the notice
8 of assessment is issued if a defense does not apply, or not later
9 than forty-five (45) days after the issuance date of the notice
10 of assessment if a defense requires the notice of assessment to
11 be sent to another person.

12 (9) A statement that the photograph or recorded image of the
13 moment when the worksite speed limit was exceeded is prima
14 facie evidence that a worksite speed limit was exceeded.

15 (10) The procedure under which the notice of assessment may
16 be reviewed under IC 4-21.5, and the procedure and
17 conditions under which the responsibility for payment of the
18 civil penalty may be transferred to another individual who
19 was operating the motor vehicle at the time the worksite speed
20 limit was exceeded.

21 (11) Written verification that the automated traffic control
22 system was operating correctly at the time the worksite speed
23 limit was exceeded and the date of the most recent inspection
24 that confirms that the automated traffic control system was
25 operating properly.

26 **Sec. 13. (a)** The owner of a motor vehicle operated by another
27 individual at the time that an automated traffic control system
28 records the speed of the motor vehicle in excess of a speed limit
29 established under IC 9-21-5-11 is not liable for the civil penalty and
30 is not required to pay the civil penalty imposed if the owner does
31 the following:

32 (1) Responds to the notice of assessment not more than thirty
33 (30) days after receiving the notice of assessment and submits
34 to the department a request for administrative review and an
35 affidavit of nonliability stating that an individual other than
36 the owner of the motor vehicle had custody and control of the
37 motor vehicle at the time that an automated traffic control
38 system recorded the speed of the motor vehicle in excess of a
39 speed limit established under IC 9-21-5-11.

40 (2) Provides the following information to the department
41 about the individual having custody and control of the motor
42 vehicle at the time that an automated traffic control system



1 recorded the speed of the motor vehicle in excess of a speed
2 limit established under IC 9-21-5-11:

3 (A) The name and address of the individual.

4 (B) The individual's driver's license number.

5 (b) If the department finds by a preponderance of the evidence
6 that an individual other than the owner of the motor vehicle was
7 operating the motor vehicle at the time that an automated traffic
8 control system records the speed of the motor vehicle in excess of
9 a speed limit established under IC 9-21-5-11, the department shall
10 issue a notice of assessment to the person found to be operating the
11 motor vehicle when an automated traffic control system recorded
12 the speed of the motor vehicle in excess of a speed limit established
13 under IC 9-21-5-11.

14 Sec. 14. (a) A person requesting an administrative review must
15 respond to the notice of assessment not more than thirty (30) days
16 after receiving the notice of assessment.

17 (b) If the person seeks an administrative review of the
18 assessment within the time period described in subsection (a) or
19 section 13 of this chapter, the department shall set a hearing not
20 later than thirty (30) days after the department receives the
21 request.

22 (c) Except as otherwise provided in this chapter, an
23 administrative review hearing shall be conducted in accordance
24 with IC 4-21.5.

25 (d) At the hearing, the department has the burden of
26 establishing by a preponderance of the evidence that the person
27 exceeded the speed limit prescribed by IC 9-21-5-11 as recorded by
28 an automated traffic control system.

29 (e) If the department finds that the person exceeded the speed
30 limit prescribed by IC 9-21-5-11 as recorded by an automated
31 traffic control system, the person is liable for the civil penalty. If
32 the department finds that the person did not exceed the speed limit
33 prescribed by IC 9-21-5-11 as recorded by an automated traffic
34 control system, the person is not liable for the civil penalty.

35 (f) A person may seek review of an order issued under this
36 section as described in IC 4-21.5-5.

37 Sec. 15. (a) Before November 1 of each year, the department
38 must submit a report to the interim study committee on roads and
39 transportation established by IC 2-5-1.3-4 that includes the
40 following:

41 (1) The number of motor vehicle accidents and related serious
42 injuries and deaths that occurred in each worksite where an



1 **automated traffic control system was operated.**

2 **(2) Data related to the speed of motor vehicles traveling**
 3 **through a worksite where an automated traffic control system**
 4 **was operated.**

5 **(3) The number of violations issued in a worksite where an**
 6 **automated traffic control system was operated.**

7 **(4) The amount of fines imposed for violations occurring in a**
 8 **worksite where an automated traffic control system was**
 9 **operated.**

10 **(b) Before July 1, 2025, the department must submit a report to**
 11 **the interim study committee on roads and transportation**
 12 **established by IC 2-5-1.3-4 that provides a summary of the impact**
 13 **of the use of automated traffic control systems in worksites.**

14 **(c) A report under this section must be submitted in an**
 15 **electronic format under IC 5-14-6.**

16 SECTION 3. IC 9-21-4-20, AS ADDED BY P.L.40-2007,
 17 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2020]: Sec. 20. (a) For purposes of this section, "highway
 19 ~~work zone~~" **worksite**" has the meaning set forth in IC 8-23-2-15.

20 (b) The Indiana department of transportation shall design and
 21 manufacture or have manufactured signs that inform vehicle operators
 22 of the offenses and penalties under:

23 **(1) IC 8-23-32;**

24 **(+) (2) IC 9-21-5-11; and**

25 **(-) (3) IC 9-21-8-56.**

26 (c) A sign described in subsection (b) shall be posted at a reasonable
 27 distance before a highway ~~work zone~~ **worksite** by:

28 (1) the Indiana department of transportation;

29 (2) a political subdivision; or

30 (3) a contractor of the:

31 (A) Indiana department of transportation; or

32 (B) political subdivision;

33 that is working at the highway ~~work zone~~ **worksite**.

34 A sign that is posted before a highway ~~work zone~~ **worksite** must be
 35 posted in accordance with the Indiana Manual on Uniform Traffic
 36 Control Devices or the Indiana Work Site Traffic Control Manual.

37 SECTION 4. IC 9-21-5-11, AS AMENDED BY P.L.41-2016,
 38 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2020]: Sec. 11. (a) Subject to subsection (b), the Indiana
 40 department of transportation, the Indiana finance authority, or a local
 41 authority may establish temporary maximum speed limits in their
 42 respective jurisdictions and in the vicinity of a worksite without



1 conducting an engineering study and investigation required under this
 2 article. The establishing authority shall post signs notifying the
 3 traveling public of the temporary maximum speed limits established
 4 under this section.

5 (b) Worksite speed limits set under this section must be at least ten
 6 (10) miles per hour below the maximum established speed limit.

7 (c) A worksite speed limit set under this section may be enforced
 8 ~~only if~~ **as follows:**

9 (1) **If** workers are present in the immediate vicinity of the
 10 worksite. ~~or~~

11 (2) If workers are not present in the immediate vicinity of the
 12 worksite, the establishing authority determines that the safety of
 13 the traveling public requires enforcement of the worksite speed
 14 limit.

15 **(3) In the case of a worksite speed limit enforced through an**
 16 **automated traffic control system under IC 8-23-32, if the**
 17 **automated traffic control system indicates that the operator**
 18 **of a motor vehicle has exceeded the worksite speed limit set**
 19 **under this section by at least eleven (11) miles per hour.**

20 (d) **This subsection does not apply to a person whose violation**
 21 **of a worksite speed limit is detected and enforced through an**
 22 **automated traffic control system under IC 8-23-32.** Notwithstanding
 23 IC 34-28-5-4(b), a judgment for the infraction of violating a speed limit
 24 set under this section must be entered as follows:

25 (1) If the person has not previously committed the infraction of
 26 violating a speed limit set under this section, a judgment for a
 27 Class B infraction and a fine of at least three hundred dollars
 28 (\$300) shall be imposed.

29 (2) If the person has committed one (1) infraction of violating a
 30 speed limit set under this section in the previous three (3) years,
 31 a judgment for a Class B infraction and a fine of at least five
 32 hundred dollars (\$500) shall be imposed.

33 (3) If the person has committed two (2) or more infractions of
 34 violating a speed limit set under this section in the previous three
 35 (3) years, a judgment for a Class B infraction and a fine of one
 36 thousand dollars (\$1,000) shall be imposed.

37 (e) **This subsection does not apply to a person whose violation of**
 38 **a worksite speed limit is detected and enforced through an**
 39 **automated traffic control system under IC 8-23-32.** Notwithstanding
 40 IC 34-28-5-5(c), the funds collected as judgments for the infraction of
 41 violating a speed limit set under this section shall be transferred to the
 42 Indiana department of transportation to pay the costs of hiring off duty



1 police officers to perform the duties described in IC 8-23-2-15(b).

2 (f) **This subsection does not apply to a person whose violation of**
 3 **a worksite speed limit is detected and enforced through an**
 4 **automated traffic control system under IC 8-23-32.** If judgment has
 5 been imposed for committing two (2) infractions under this section
 6 within one (1) year, an additional penalty of the suspension of the
 7 driving privileges of the person who committed the infractions may be
 8 imposed by the court imposing the sentence for the second violation.
 9 If the court suspends a person's driving privileges under this
 10 subsection, the court shall issue an order to the bureau:

11 (1) stating that judgment against the person has been entered for
 12 committing the infraction of exceeding a worksite speed limit
 13 under this section for the second time in one (1) year; and

14 (2) ordering the suspension of the person's driving privileges by
 15 the bureau under IC 9-30-13-9.

16 The suspension of a person's driving privileges under this section is in
 17 addition to any other penalties imposed under this section and any fee
 18 imposed under IC 33-37-5-14.

19 (g) **In the case of a worksite speed limit enforced through an**
 20 **automated traffic control system, a civil penalty shall be assessed**
 21 **under IC 8-23-32.**

22 SECTION 5. IC 9-21-8-56, AS AMENDED BY P.L.217-2014,
 23 SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2020]: Sec. 56. (a) For purposes of this section, "highway
 25 ~~work zone~~ **worksite**" has the meaning set forth in IC 8-23-2-15.

26 (b) Except as provided in subsections (f) through (h), a person who
 27 recklessly operates a vehicle in the immediate vicinity of a highway
 28 ~~work zone~~ **worksite** when workers are present commits a Class A
 29 misdemeanor.

30 (c) Except as provided in subsections (f) through (h), a person who
 31 knowingly or intentionally operates a motor vehicle in the immediate
 32 vicinity of a highway ~~work zone~~ **worksite** when workers are present
 33 with the intent to:

34 (1) damage traffic control devices; or

35 (2) inflict bodily injury on a worker;

36 commits a Class A misdemeanor.

37 (d) Except as provided in subsections (f) through (h), a person who
 38 knowingly, intentionally, or recklessly engages in:

39 (1) aggressive driving, as defined in section 55 of this chapter; or

40 (2) a speed contest, as prohibited under IC 9-21-6-1;

41 in the immediate vicinity of a highway ~~work zone~~ **worksite** when
 42 workers are present commits a Class A misdemeanor.



1 (e) Except as provided in subsections (f) through (h), a person who
 2 recklessly fails to obey a traffic control device or flagman, as
 3 prohibited under section 41 of this chapter, in the immediate vicinity
 4 of a highway **work zone worksite** when workers are present commits
 5 a Class A misdemeanor.

6 (f) An offense under subsection (b), (c), (d), or (e) is a Level 6
 7 felony if the person who commits the offense:

8 (1) has a prior unrelated conviction under this section in the
 9 previous five (5) years; or

10 (2) is operating the vehicle in violation of IC 9-30-5-1 or
 11 IC 9-30-5-2.

12 (g) An offense under subsection (b), (c), (d), or (e) is a Level 6
 13 felony if the offense results in bodily injury to a worker in the worksite.

14 (h) An offense under subsection (b), (c), (d), or (e) is a Level 5
 15 felony if the offense results in the death of a worker in the worksite.

16 (i) A person who knowingly, intentionally, or recklessly engages in
 17 an act described in section 55(b)(1), 55(b)(2), 55(b)(3), 55(b)(4),
 18 55(b)(5), or 55(b)(6) of this chapter in the immediate vicinity of a
 19 highway **work zone worksite** when workers are present commits a
 20 Class B infraction. Notwithstanding IC 34-28-5-5(c), the funds
 21 collected as judgments for an infraction under this subsection shall be
 22 transferred to the Indiana department of transportation to pay the costs
 23 of hiring off duty police officers to perform the duties described in
 24 IC 8-23-2-15(b).

25 SECTION 6. IC 33-37-4-1, AS AMENDED BY P.L.24-2018,
 26 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2020]: Sec. 1. (a) For each action that results in a felony
 28 conviction under IC 35-50-2 or a misdemeanor conviction under
 29 IC 35-50-3, the clerk shall collect from the defendant a criminal costs
 30 fee of one hundred twenty dollars (\$120).

31 (b) In addition to the criminal costs fee collected under this section,
 32 the clerk shall collect from the defendant the following fees if they are
 33 required under IC 33-37-5:

34 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or
 35 IC 33-37-5-4).

36 (2) A marijuana eradication program fee (IC 33-37-5-7).

37 (3) An alcohol and drug services program fee (IC 33-37-5-8(b)).

38 (4) A law enforcement continuing education program fee (IC
 39 33-37-5-8(c)).

40 (5) A drug abuse, prosecution, interdiction, and correction fee (IC
 41 33-37-5-9).

42 (6) An alcohol and drug countermeasures fee (IC 33-37-5-10).



- 1 (7) A child abuse prevention fee (IC 33-37-5-12).
 2 (8) A domestic violence prevention and treatment fee (IC
 3 33-37-5-13).
 4 (9) A highway worksite ~~zone~~ fee (IC 33-37-5-14).
 5 (10) A deferred prosecution fee (IC 33-37-5-17).
 6 (11) A document storage fee (IC 33-37-5-20).
 7 (12) An automated record keeping fee (IC 33-37-5-21).
 8 (13) A late payment fee (IC 33-37-5-22).
 9 (14) A sexual assault victims assistance fee (IC 33-37-5-23).
 10 (15) A public defense administration fee (IC 33-37-5-21.2).
 11 (16) A judicial insurance adjustment fee (IC 33-37-5-25).
 12 (17) A judicial salaries fee (IC 33-37-5-26).
 13 (18) A court administration fee (IC 33-37-5-27).
 14 (19) A DNA sample processing fee (IC 33-37-5-26.2).
- 15 (c) Instead of the criminal costs fee prescribed by this section,
 16 except for the automated record keeping fee (IC 33-37-5-21), the clerk
 17 shall collect a pretrial diversion program fee if an agreement between
 18 the prosecuting attorney and the accused person entered into under
 19 IC 33-39-1-8 requires payment of those fees by the accused person.
 20 The pretrial diversion program fee is:
 21 (1) an initial user's fee of fifty dollars (\$50) for a misdemeanor
 22 offense;
 23 (2) an initial user's fee of seventy-five dollars (\$75) for a felony
 24 offense;
 25 (3) a monthly user's fee of twenty dollars (\$20) for each month
 26 that the person remains in the pretrial diversion program; and
 27 (4) any additional program fee or cost that is:
 28 (A) reasonably related to the person's rehabilitation; and
 29 (B) approved by the court.
- 30 A monthly user fee may not be collected beyond the maximum length
 31 of the possible sentence.
- 32 (d) The clerk shall transfer to the county auditor or city or town
 33 fiscal officer the following fees, not later than thirty (30) days after the
 34 fees are collected:
 35 (1) The pretrial diversion fee.
 36 (2) The marijuana eradication program fee.
 37 (3) The alcohol and drug services program fee.
 38 (4) The law enforcement continuing education program fee.
- 39 The auditor or fiscal officer shall deposit fees transferred under this
 40 subsection in the appropriate user fee fund established under
 41 IC 33-37-8.
 42 (e) Unless otherwise directed by a court, if a clerk collects only part



1 of a criminal costs fee from a defendant under this section, the clerk
2 shall distribute the partial payment of the criminal costs fee as follows:

3 (1) The clerk shall apply the partial payment to general court
4 costs.

5 (2) If there is money remaining after the partial payment is
6 applied to general court costs under subdivision (1), the clerk
7 shall distribute the remainder of the partial payment for deposit in
8 the appropriate county user fee fund.

9 (3) If there is money remaining after distribution under
10 subdivision (2), the clerk shall distribute the remainder of the
11 partial payment for deposit in the state user fee fund.

12 (4) If there is money remaining after distribution under
13 subdivision (3), the clerk shall distribute the remainder of the
14 partial payment to any other applicable user fee fund.

15 (5) If there is money remaining after distribution under
16 subdivision (4), the clerk shall apply the remainder of the partial
17 payment to any outstanding fines owed by the defendant.

18 SECTION 7. IC 33-37-4-2, AS AMENDED BY P.L.85-2017,
19 SECTION 109, IS AMENDED TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2020]: Sec. 2. (a) Except as provided in
21 subsections (d) and (e), for each action that results in a judgment:

22 (1) for a violation constituting an infraction; or

23 (2) for a violation of an ordinance of a municipal corporation (as
24 defined in IC 36-1-2-10);

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

27 (b) In addition to the infraction or ordinance violation costs fee
28 collected under this section, the clerk shall collect from the defendant
29 the following fees, if they are required under IC 33-37-5:

30 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or
31 IC 33-37-5-4).

32 (2) An alcohol and drug services program fee (IC 33-37-5-8(b)).

33 (3) A law enforcement continuing education program fee (IC
34 33-37-5-8(c)).

35 (4) An alcohol and drug countermeasures fee (IC 33-37-5-10).

36 (5) A highway worksite ~~zone~~ fee (IC 33-37-5-14).

37 (6) A deferred prosecution fee (IC 33-37-5-17).

38 (7) A jury fee (IC 33-37-5-19).

39 (8) A document storage fee (IC 33-37-5-20).

40 (9) An automated record keeping fee (IC 33-37-5-21).

41 (10) A late payment fee (IC 33-37-5-22).

42 (11) A public defense administration fee (IC 33-37-5-21.2).



- 1 (12) A judicial insurance adjustment fee (IC 33-37-5-25).
- 2 (13) A judicial salaries fee (IC 33-37-5-26).
- 3 (14) A court administration fee (IC 33-37-5-27).
- 4 (15) A DNA sample processing fee (IC 33-37-5-26.2).
- 5 (c) The clerk shall transfer to the county auditor or fiscal officer of
- 6 the municipal corporation the following fees, not later than thirty (30)
- 7 days after the fees are collected:
- 8 (1) The alcohol and drug services program fee (IC 33-37-5-8(b)).
- 9 (2) The law enforcement continuing education program fee (IC
- 10 33-37-5-8(c)).
- 11 (3) The deferral program fee (subsection (e)).
- 12 The auditor or fiscal officer shall deposit the fees in the user fee fund
- 13 established under IC 33-37-8.
- 14 (d) The defendant is not liable for any ordinance violation costs fee
- 15 in an action if all the following apply:
- 16 (1) The defendant was charged with an ordinance violation
- 17 subject to IC 33-36.
- 18 (2) The defendant denied the violation under IC 33-36-3.
- 19 (3) Proceedings in court against the defendant were initiated
- 20 under IC 34-28-5 (or IC 34-4-32 before its repeal).
- 21 (4) The defendant was tried and the court entered judgment for
- 22 the defendant for the violation.
- 23 (e) Instead of the infraction or ordinance violation costs fee
- 24 prescribed by subsection (a), except for the automated record keeping
- 25 fee (IC 33-37-5-21), the clerk shall collect a deferral program fee if an
- 26 agreement between a prosecuting attorney or an attorney for a
- 27 municipal corporation and the person charged with a violation entered
- 28 into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires
- 29 payment of those fees by the person charged with the violation. The
- 30 deferral program fee is:
- 31 (1) an initial user's fee not to exceed fifty-two dollars (\$52); and
- 32 (2) a monthly user's fee not to exceed ten dollars (\$10) for each
- 33 month the person remains in the deferral program.
- 34 (f) The fees prescribed by this section are costs for purposes of
- 35 IC 34-28-5-5 and may be collected from a defendant against whom
- 36 judgment is entered. Any penalty assessed is in addition to costs.
- 37 SECTION 8. IC 33-37-5-14, AS AMENDED BY P.L.85-2013,
- 38 SECTION 114, IS AMENDED TO READ AS FOLLOWS
- 39 [EFFECTIVE JULY 1, 2020]: Sec. 14. (a) This section applies to
- 40 criminal, infraction, and ordinance violation actions that are traffic
- 41 offenses (as defined in IC 9-13-2-183).
- 42 (b) The clerk shall collect a highway worksite ~~zone~~ fee of fifty cents



1 (\$0.50). However, the clerk shall collect a highway worksite ~~zone~~ fee
2 of twenty-five dollars and fifty cents (\$25.50) if:

3 (1) the criminal action, infraction, or ordinance violation is:

4 (A) exceeding a worksite speed limit (as provided in
5 IC 9-21-5-2 and authorized by IC 9-21-5-3); or

6 (B) failure to merge (as provided in IC 9-21-8-7.5); and

7 (2) the judge orders the clerk to collect the fee for exceeding a
8 worksite speed limit or failure to merge.

9 SECTION 9. IC 33-37-7-2, AS AMENDED BY P.L.30-2019,
10 SECTION 20, AND AS AMENDED BY P.L.144-2019, SECTION 18,
11 AND AS AMENDED BY THE TECHNICAL CORRECTIONS BILL
12 OF THE 2020 GENERAL ASSEMBLY, IS CORRECTED AND
13 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]:
14 Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to
15 the auditor of state as the state share for deposit in the homeowner
16 protection unit account established by IC 4-6-12-9 one hundred percent
17 (100%) of the automated record keeping fees collected under
18 IC 33-37-5-21 with respect to actions resulting in the accused person
19 entering into a pretrial diversion program agreement under
20 IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and
21 for deposit in the state general fund seventy percent (70%) of the
22 amount of fees collected under the following:

23 (1) IC 33-37-4-1(a) (criminal costs fees).

24 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

25 (3) IC 33-37-4-3(a) (juvenile costs fees).

26 (4) IC 33-37-4-4(a) (civil costs fees).

27 (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).

28 (6) IC 33-37-4-7(a) (probate costs fees).

29 (7) IC 33-37-5-17 (deferred prosecution fees).

30 (b) The clerk of a circuit court shall distribute semiannually to the
31 auditor of state for deposit in the state user fee fund established in
32 IC 33-37-9-2 the following:

33 (1) Twenty-five percent (25%) of the drug abuse, prosecution,
34 interdiction, and correction fees collected under
35 IC 33-37-4-1(b)(5).

36 (2) Twenty-five percent (25%) of the alcohol and drug
37 countermeasures fees collected under IC 33-37-4-1(b)(6),
38 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

39 (3) One hundred percent (100%) of the child abuse prevention
40 fees collected under IC 33-37-4-1(b)(7).

41 (4) One hundred percent (100%) of the domestic violence
42 prevention and treatment fees collected under IC 33-37-4-1(b)(8).



- 1 (5) One hundred percent (100%) of the highway worksite ~~zone~~
- 2 fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- 3 (6) ~~One hundred percent (100%)~~ *Seventy-five percent (75%)* of
- 4 the safe schools fee collected under IC 33-37-5-18.
- 5 (7) One hundred percent (100%) of the automated record keeping
- 6 fee collected under IC 33-37-5-21 not distributed under
- 7 subsection (a).
- 8 (c) The clerk of a circuit court shall distribute monthly to the county
- 9 auditor the following:
- 10 (1) Seventy-five percent (75%) of the drug abuse, prosecution,
- 11 interdiction, and correction fees collected under
- 12 IC 33-37-4-1(b)(5).
- 13 (2) Seventy-five percent (75%) of the alcohol and drug
- 14 countermeasures fees collected under IC 33-37-4-1(b)(6),
- 15 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 16 The county auditor shall deposit fees distributed by a clerk under this
- 17 subsection into the county drug free community fund established under
- 18 IC 5-2-11.
- 19 (d) The clerk of a circuit court shall distribute monthly to the county
- 20 auditor one hundred percent (100%) of the late payment fees collected
- 21 under IC 33-37-5-22. The county auditor shall deposit fees distributed
- 22 by a clerk under this subsection as follows:
- 23 (1) If directed to do so by an ordinance adopted by the county
- 24 fiscal body, the county auditor shall deposit forty percent (40%)
- 25 of the fees in the clerk's record perpetuation fund established
- 26 under IC 33-37-5-2 and sixty percent (60%) of the fees in the
- 27 county general fund.
- 28 (2) If the county fiscal body has not adopted an ordinance
- 29 described in subdivision (1), the county auditor shall deposit all
- 30 the fees in the county general fund.
- 31 (e) The clerk of the circuit court shall distribute semiannually to the
- 32 auditor of state for deposit in the sexual assault victims assistance fund
- 33 established by ~~IC 5-2-6-23(f)~~ *IC 5-2-6-23(d)* one hundred percent
- 34 (100%) of the sexual assault victims assistance fees collected under
- 35 IC 33-37-5-23.
- 36 (f) The clerk of a circuit court shall distribute monthly to the county
- 37 auditor the following:
- 38 (1) One hundred percent (100%) of the support and maintenance
- 39 fees for cases designated as non-Title IV-D child support cases in
- 40 the Indiana support enforcement tracking system (ISETS) or the
- 41 successor statewide automated support enforcement system
- 42 collected under IC 33-37-5-6.



1 (2) The percentage share of the support and maintenance fees for
 2 cases designated as Title IV-D child support cases in ISETS or the
 3 successor statewide automated support enforcement system
 4 collected under IC 33-37-5-6 that is reimbursable to the county at
 5 the federal financial participation rate.

6 The county clerk shall distribute monthly to the department of child
 7 services the percentage share of the support and maintenance fees for
 8 cases designated as Title IV-D child support cases in ISETS, or the
 9 successor statewide automated support enforcement system, collected
 10 under IC 33-37-5-6 that is not reimbursable to the county at the
 11 applicable federal financial participation rate.

12 (g) The clerk of a circuit court shall distribute monthly to the county
 13 auditor the following:

14 (1) One hundred percent (100%) of the small claims service fee
 15 under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in
 16 the county general fund.

17 (2) One hundred percent (100%) of the small claims garnishee
 18 service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for
 19 deposit in the county general fund.

20 (3) *Twenty-five percent (25%) of the safe schools fee collected*
 21 *under IC 33-37-5-18 for deposit in the county general fund.*

22 (h) This subsection does not apply to court administration fees
 23 collected in small claims actions filed in a court described in IC 33-34.
 24 The clerk of a circuit court shall semiannually distribute to the auditor
 25 of state for deposit in the state general fund one hundred percent
 26 (100%) of the following:

27 (1) The public defense administration fee collected under
 28 IC 33-37-5-21.2.

29 (2) The judicial salaries fees collected under IC 33-37-5-26.

30 (3) The DNA sample processing fees collected under
 31 IC 33-37-5-26.2.

32 (4) The court administration fees collected under IC 33-37-5-27.

33 (i) The clerk of a circuit court shall semiannually distribute to the
 34 auditor of state for deposit in the judicial branch insurance adjustment
 35 account established by IC 33-38-5-8.2 one hundred percent (100%) of
 36 the judicial insurance adjustment fee collected under IC 33-37-5-25.

37 (j) The proceeds of the service fee collected under
 38 IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as
 39 follows:

40 (1) The clerk shall distribute one hundred percent (100%) of the
 41 service fees collected in a circuit, superior, county, or probate
 42 court to the county auditor for deposit in the county general fund.



- 1 (2) The clerk shall distribute one hundred percent (100%) of the
2 service fees collected in a city or town court to the city or town
3 fiscal officer for deposit in the city or town general fund.
- 4 (k) The proceeds of the garnishee service fee collected under
5 IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as
6 follows:
- 7 (1) The clerk shall distribute one hundred percent (100%) of the
8 garnishee service fees collected in a circuit, superior, county, or
9 probate court to the county auditor for deposit in the county
10 general fund.
- 11 (2) The clerk shall distribute one hundred percent (100%) of the
12 garnishee service fees collected in a city or town court to the city
13 or town fiscal officer for deposit in the city or town general fund.
- 14 (l) The clerk of the circuit court shall distribute semiannually to the
15 auditor of state for deposit in the home ownership education account
16 established by IC 5-20-1-27 one hundred percent (100%) of the
17 following:
- 18 (1) The mortgage foreclosure counseling and education fees
19 collected under IC 33-37-5-33 (before its expiration on July 1,
20 2017).
- 21 (2) Any civil penalties imposed and collected by a court for a
22 violation of a court order in a foreclosure action under
23 IC 32-30-10.5.
- 24 (m) The clerk of a circuit court shall distribute semiannually to the
25 auditor of state one hundred percent (100%) of the pro bono legal
26 services fees collected before July 1, 2022, under IC 33-37-5-31. The
27 auditor of state shall transfer semiannually the pro bono legal services
28 fees to the Indiana Bar Foundation (or a successor entity) as the entity
29 designated to organize and administer the interest on lawyers trust
30 accounts (IOLTA) program under Rule 1.15 of the Rules of
31 Professional Conduct of the Indiana supreme court. The Indiana Bar
32 Foundation shall:
- 33 (1) deposit in an appropriate account and otherwise manage the
34 fees the Indiana Bar Foundation receives under this subsection in
35 the same manner the Indiana Bar Foundation deposits and
36 manages the net earnings the Indiana Bar Foundation receives
37 from IOLTA accounts; and
- 38 (2) use the fees the Indiana Bar Foundation receives under this
39 subsection to assist or establish approved pro bono legal services
40 programs.
- 41 The handling and expenditure of the pro bono legal services fees
42 received under this section by the Indiana Bar Foundation (or its



1 successor entity) are subject to audit by the state board of accounts. The
 2 amounts necessary to make the transfers required by this subsection are
 3 appropriated from the state general fund.

4 SECTION 10. IC 33-37-7-8, AS AMENDED BY P.L.144-2019,
 5 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2020]: Sec. 8. (a) The clerk of a city or town court shall
 7 distribute semiannually to the auditor of state as the state share for
 8 deposit in the homeowner protection unit account established by
 9 IC 4-6-12-9 one hundred percent (100%) of the automated record
 10 keeping fees collected under IC 33-37-5-21 with respect to actions
 11 resulting in the accused person entering into a pretrial diversion
 12 program agreement under IC 33-39-1-8 or a deferral program
 13 agreement under IC 34-28-5-1 and for deposit in the state general fund
 14 fifty-five percent (55%) of the amount of fees collected under the
 15 following:

- 16 (1) IC 33-37-4-1(a) (criminal costs fees).
- 17 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 18 (3) IC 33-37-4-4(a) (civil costs fees).
- 19 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 20 (5) IC 33-37-5-17 (deferred prosecution fees).

21 (b) The city or town fiscal officer shall distribute monthly to the
 22 county auditor as the county share twenty percent (20%) of the amount
 23 of fees collected under the following:

- 24 (1) IC 33-37-4-1(a) (criminal costs fees).
- 25 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 26 (3) IC 33-37-4-4(a) (civil costs fees).
- 27 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 28 (5) IC 33-37-5-17 (deferred prosecution fees).

29 (c) The city or town fiscal officer shall retain twenty-five percent
 30 (25%) as the city or town share of the fees collected under the
 31 following:

- 32 (1) IC 33-37-4-1(a) (criminal costs fees).
- 33 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 34 (3) IC 33-37-4-4(a) (civil costs fees).
- 35 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 36 (5) IC 33-37-5-17 (deferred prosecution fees).

37 (d) The clerk of a city or town court shall distribute semiannually to
 38 the auditor of state for deposit in the state user fee fund established in
 39 IC 33-37-9 the following:

- 40 (1) Twenty-five percent (25%) of the drug abuse, prosecution,
 41 interdiction, and correction fees collected under
 42 IC 33-37-4-1(b)(5).



- 1 (2) Twenty-five percent (25%) of the alcohol and drug
- 2 countermeasures fees collected under IC 33-37-4-1(b)(6),
- 3 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 4 (3) One hundred percent (100%) of the highway worksite ~~zone~~
- 5 fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- 6 (4) Seventy-five percent (75%) of the safe schools fee collected
- 7 under IC 33-37-5-18.
- 8 (5) One hundred percent (100%) of the automated record keeping
- 9 fee collected under IC 33-37-5-21 not distributed under
- 10 subsection (a).
- 11 (e) The clerk of a city or town court shall distribute monthly to the
- 12 county auditor the following:
- 13 (1) Seventy-five percent (75%) of the drug abuse, prosecution,
- 14 interdiction, and correction fees collected under
- 15 IC 33-37-4-1(b)(5).
- 16 (2) Seventy-five percent (75%) of the alcohol and drug
- 17 countermeasures fees collected under IC 33-37-4-1(b)(6),
- 18 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 19 The county auditor shall deposit fees distributed by a clerk under this
- 20 subsection into the county drug free community fund established under
- 21 IC 5-2-11.
- 22 (f) The clerk of a city or town court shall distribute monthly to the
- 23 city or town fiscal officer (as defined in IC 36-1-2-7) one hundred
- 24 percent (100%) of the following:
- 25 (1) The late payment fees collected under IC 33-37-5-22.
- 26 (2) The small claims service fee collected under
- 27 IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2).
- 28 (3) The small claims garnishee service fee collected under
- 29 IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3).
- 30 (4) Twenty-five percent (25%) of the safe schools fee collected
- 31 under IC 33-37-5-18.
- 32 The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit
- 33 fees distributed by a clerk under this subsection in the city or town
- 34 general fund.
- 35 (g) The clerk of a city or town court shall semiannually distribute to
- 36 the auditor of state for deposit in the state general fund one hundred
- 37 percent (100%) of the following:
- 38 (1) The public defense administration fee collected under
- 39 IC 33-37-5-21.2.
- 40 (2) The DNA sample processing fees collected under
- 41 IC 33-37-5-26.2.
- 42 (3) The court administration fees collected under IC 33-37-5-27.



1 (h) The clerk of a city or town court shall semiannually distribute to
 2 the auditor of state for deposit in the judicial branch insurance
 3 adjustment account established by IC 33-38-5-8.2 one hundred percent
 4 (100%) of the judicial insurance adjustment fee collected under
 5 IC 33-37-5-25.

6 (i) The clerk of a city or town court shall semiannually distribute to
 7 the auditor of state for deposit in the state general fund seventy-five
 8 percent (75%) of the judicial salaries fee collected under
 9 IC 33-37-5-26. The city or town fiscal officer shall retain twenty-five
 10 percent (25%) of the judicial salaries fee collected under
 11 IC 33-37-5-26. The funds retained by the city or town shall be
 12 prioritized to fund city or town court operations.

13 (j) The clerk of a city or town court shall distribute semiannually to
 14 the auditor of state one hundred percent (100%) of the pro bono legal
 15 services fees collected before July 1, 2022, under IC 33-37-5-31. The
 16 auditor of state shall transfer semiannually the pro bono legal services
 17 fees to the Indiana Bar Foundation (or a successor entity) as the entity
 18 designated to organize and administer the interest on lawyers trust
 19 accounts (IOLTA) program under Rule 1.15 of the Rules of
 20 Professional Conduct of the Indiana supreme court. The Indiana Bar
 21 Foundation shall:

22 (1) deposit in an appropriate account and otherwise manage the
 23 fees the Indiana Bar Foundation receives under this subsection in
 24 the same manner the Indiana Bar Foundation deposits and
 25 manages the net earnings the Indiana Bar Foundation receives
 26 from IOLTA accounts; and

27 (2) use the fees the Indiana Bar Foundation receives under this
 28 subsection to assist or establish approved pro bono legal services
 29 programs.

30 The handling and expenditure of the pro bono legal services fees
 31 received under this section by the Indiana Bar Foundation (or its
 32 successor entity) are subject to audit by the state board of accounts. The
 33 amounts necessary to make the transfers required by this subsection are
 34 appropriated from the state general fund.



COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security and Transportation, to which was referred Senate Bill No. 268, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 8 through 42, begin a new paragraph and insert:
 "SECTION 2. IC 8-23-32 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]:

Chapter 32. Automated Traffic Control System Pilot Program to Monitor Worksite Speed Limits

Sec. 1. (a) This chapter does not apply to a road or bridge maintained by or under a contract with the Indiana finance authority.

(b) This chapter applies only to a part of a road or bridge on the interstate system (as defined by IC 8-23-1-25) or a U.S. route.

Sec. 2. As used in this chapter, "automated traffic control system" means a photographic device, radar device, laser device, or other electrical or mechanical device or devices designed to:

- (1) record the speed of a motor vehicle; and**
- (2) obtain a clear photograph or other recorded image of the rear of the motor vehicle and the license plate affixed to the motor vehicle at the time the recorded speed of the motor vehicle exceeds a speed limit established under IC 9-21-5-11.**

Sec. 3. As used in this chapter, "motor vehicle rental company" means a person that routinely engages in the business of renting motor vehicles for periods of not more than thirty (30) days.

Sec. 4. As used in this chapter, "owner" means a person in whose name a motor vehicle is registered under any of the following:

- (1) IC 9-18.1.**
- (2) The law of another state.**
- (3) The law of a foreign country.**
- (4) The International Registration Plan.**

Sec. 5. As used in this chapter, "worksite" means any part of a road or bridge on the interstate system (as defined by IC 8-23-1-25) or a U.S. route on which the department has established a speed limit under IC 9-21-5-11.

Sec. 6. (a) The department may establish an automated traffic control system pilot program in a worksite. However, the department may operate an automated traffic control system



installed under this subsection only when workers are present in the worksite.

(b) The department may enter into an agreement with a third party vendor to assist in the administration of this chapter.

(c) The burden of proving that workers were present at the time an automated traffic control system recorded the speed of the motor vehicle exceeding a speed limit established under IC 9-21-5-11 is on the department in an administrative review under IC 4-21.5.

(d) The department may purchase and operate no more than four (4) automated traffic control systems under this chapter.

(e) No more than four (4) worksites may be monitored in any single calendar year.

Sec. 7. If the department establishes an automated traffic control system under section 6 of this chapter, the department shall do the following:

(1) Conduct a public information campaign to inform drivers about the use of an automated traffic control system to detect speeds in excess of a worksite speed limit before implementing the automated traffic control system.

(2) Post signs indicating that worksite speed limits are monitored through an automated traffic control system before the entrance to any worksite in which an automated traffic control system is in use.

(3) Limit the operation of an automated traffic control system to areas where workers are present and highway construction or maintenance is occurring.

Sec. 8. (a) An automated traffic control system may not be used to take a photograph or recorded image of the front of a motor vehicle.

(b) A front view photograph or recorded image obtained through the use of an automated traffic control system may not be used as evidence in any hearing under IC 4-21.5.

Sec. 9. (a) A photograph or recorded image obtained through the use of an automated traffic control system may not be used as evidence in any action other than the action to collect a worksite speed limit civil penalty for which the photograph or recorded image was obtained.

(b) A photograph or recorded image obtained through the use of an automated traffic control system may be used internally to administer the automated traffic control system. However, unless authorized by court order, a photograph or recorded image



obtained through the use of an automated traffic control system may not be disclosed to anyone other than:

- (1) the owner of the motor vehicle at the time the recorded speed of the motor vehicle exceeded a speed limit established under IC 9-21-5-11;
- (2) the individual alleged to have been operating the motor vehicle at the time the worksite speed limit was exceeded as described in subdivision (1);
- (3) an attorney representing an individual described in subdivision (1) or (2);
- (4) a law enforcement officer;
- (5) the department;
- (6) a person administering the automated traffic control system; and
- (7) the court in a proceeding for judicial review under IC 4-21.5.

Sec. 10. (a) Except as provided in section 13 of this chapter, the owner of a motor vehicle identified through an automated traffic control system is liable for the civil penalty described in section 11 of this chapter for exceeding a speed limit established under IC 9-21-5-11.

(b) There is a rebuttable presumption that the owner of a motor vehicle that is the subject of a photograph or recorded image was operating the motor vehicle when the photograph or recorded image was obtained through an automated traffic control system. The presumption does not apply to the owner of a motor vehicle that is the subject of a photograph or recorded image if the owner of the motor vehicle is a motor vehicle rental company.

(c) The owner of a motor vehicle, including a motor vehicle rental company, may submit the information described in section 13 of this chapter to rebut the presumption created by subsection (b).

(d) It is a defense under this section if any of the following apply:

- (1) The person receiving a notice under section 12 of this chapter was not the owner of the motor vehicle and was not driving the vehicle at the time that the worksite speed limit was exceeded.
- (2) The vehicle was reported stolen prior to the time that the worksite speed limit was exceeded and was not recovered prior to that time.
- (3) The automated traffic control system was not properly



tested for accuracy, certification, or calibration.

(4) No workers were present in the worksite at the time that the worksite speed limit was exceeded.

Sec. 11. (a) This section does not apply to a person who has been charged with an infraction for a violation of IC 9-21-5-11.

(b) The department shall assess a civil penalty on a person who exceeds the speed limit prescribed by IC 9-21-5-11 if the automated traffic control system indicates that the operator of a motor vehicle has exceeded the worksite speed limit by at least eleven (11) miles per hour.

(c) A person who exceeds a worksite speed limit established under IC 9-21-5-11 that is detected under this chapter is subject to the following civil penalties:

(1) A written warning for the first time that the person exceeds a worksite speed limit detected under this chapter.

(2) A civil penalty of seventy-five dollars (\$75) for the second time that the person exceeds a worksite speed limit detected under this chapter.

(3) A civil penalty of one hundred fifty dollars (\$150) for the third and each subsequent time that the person exceeds a worksite speed limit detected under this chapter.

(d) A civil penalty collected under this section shall be deposited in the state general fund.

(e) A person assessed a civil penalty under this section is not liable for an infraction for a violation of IC 9-21-5-11.

Sec. 12. A person identified as the owner of the motor vehicle at the time an automated traffic control system indicated that the speed of the motor vehicle exceeded a speed limit established under IC 9-21-5-11 is entitled to notice of the violation by first class mail postmarked not later than fourteen (14) days after the date of the alleged violation. The notice must include the following information:

(1) The name and address of the owner of the motor vehicle.

(2) The license plate number of the motor vehicle.

(3) A statement informing the person that an automated traffic control system indicated that the motor vehicle exceeded a speed limit established under IC 9-21-5-11.

(4) The location of where the worksite speed limit was exceeded.

(5) The date and time when the worksite speed limit was exceeded.

(6) A copy of, and information on how to view through



electronic means, the photograph or recorded image of the moment when the worksite speed limit was exceeded.

(7) The amount of the civil penalty.

(8) The date by which the civil penalty must be paid if the owner of the motor vehicle does not desire to request an administrative review under IC 4-21.5. The civil penalty must be paid not later than thirty (30) days after the date the notice of assessment is issued if a defense does not apply, or not later than forty-five (45) days after the issuance date of the notice of assessment if a defense requires the notice of assessment to be sent to another person.

(9) A statement that the photograph or recorded image of the moment when the worksite speed limit was exceeded is prima facie evidence that a worksite speed limit was exceeded.

(10) The procedure under which the notice of assessment may be reviewed under IC 4-21.5, and the procedure and conditions under which the responsibility for payment of the civil penalty may be transferred to another individual who was operating the motor vehicle at the time the worksite speed limit was exceeded.

(11) Written verification that the automated traffic control system was operating correctly at the time the worksite speed limit was exceeded and the date of the most recent inspection that confirms that the automated traffic control system was operating properly.

Sec. 13. (a) The owner of a motor vehicle operated by another individual at the time that an automated traffic control system records the speed of the motor vehicle in excess of a speed limit established under IC 9-21-5-11 is not liable for the civil penalty and is not required to pay the civil penalty imposed if the owner does the following:

(1) Responds to the notice of assessment not more than thirty (30) days after receiving the notice of assessment and submits to the department a request for administrative review and an affidavit of nonliability stating that an individual other than the owner of the motor vehicle had custody and control of the motor vehicle at the time that an automated traffic control system recorded the speed of the motor vehicle in excess of a speed limit established under IC 9-21-5-11.

(2) Provides the following information to the department about the individual having custody and control of the motor vehicle at the time that an automated traffic control system



recorded the speed of the motor vehicle in excess of a speed limit established under IC 9-21-5-11:

(A) The name and address of the individual.

(B) The individual's driver's license number.

(b) If the department finds by a preponderance of the evidence that an individual other than the owner of the motor vehicle was operating the motor vehicle at the time that an automated traffic control system records the speed of the motor vehicle in excess of a speed limit established under IC 9-21-5-11, the department shall issue a notice of assessment to the person found to be operating the motor vehicle when an automated traffic control system recorded the speed of the motor vehicle in excess of a speed limit established under IC 9-21-5-11.

Sec. 14. (a) A person requesting an administrative review must respond to the notice of assessment not more than thirty (30) days after receiving the notice of assessment.

(b) If the person seeks an administrative review of the assessment within the time period described in subsection (a) or section 13 of this chapter, the department shall set a hearing not later than thirty (30) days after the department receives the request.

(c) Except as otherwise provided in this chapter, an administrative review hearing shall be conducted in accordance with IC 4-21.5.

(d) At the hearing, the department has the burden of establishing by a preponderance of the evidence that the person exceeded the speed limit prescribed by IC 9-21-5-11 as recorded by an automated traffic control system.

(e) If the department finds that the person exceeded the speed limit prescribed by IC 9-21-5-11 as recorded by an automated traffic control system, the person is liable for the civil penalty. If the department finds that the person did not exceed the speed limit prescribed by IC 9-21-5-11 as recorded by an automated traffic control system, the person is not liable for the civil penalty.

(f) A person may seek review of an order issued under this section as described in IC 4-21.5-5.

Sec. 15. (a) Before November 1 of each year, the department must submit a report to the interim study committee on roads and transportation established by IC 2-5-1.3-4 that includes the following:

(1) The number of motor vehicle accidents and related serious injuries and deaths that occurred in each worksite where an



automated traffic control system was operated.

(2) Data related to the speed of motor vehicles traveling through a worksite where an automated traffic control system was operated.

(3) The number of violations issued in a worksite where an automated traffic control system was operated.

(4) The amount of fines imposed for violations occurring in a worksite where an automated traffic control system was operated.

(b) Before July 1, 2025, the department must submit a report to the interim study committee on roads and transportation established by IC 2-5-1.3-4 that provides a summary of the impact of the use of automated traffic control systems in worksites.

(c) A report under this section must be submitted in an electronic format under IC 5-14-6."

Delete pages 3 through 7.

Page 8, delete lines 1 through 11.

Page 8, between lines 18 and 19, begin a new line block indented and insert:

"(1) IC 8-23-32;".

Page 8, line 19, strike "(1)" and insert "(2)".

Page 8, line 20, strike "(2)" and insert "(3)".

Page 9, line 11, delete "IC 9-21-3.7," and insert "IC 8-23-32,".

Page 9, line 17, delete "IC 9-21-3.7." and insert "IC 8-23-32.".

Page 9, line 35, delete "IC 9-21-3.7." and insert "IC 8-23-32.".

Page 10, line 1, delete "IC 9-21-3.7." and insert "IC 8-23-32.".

Page 10, between lines 15 and 16, begin a new paragraph and insert:

"(g) In the case of a worksite speed limit enforced through an automated traffic control system, a civil penalty shall be assessed under IC 8-23-32.".

Page 11, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 7. IC 33-37-4-1, AS AMENDED BY P.L.24-2018, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars (\$120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).



- (2) A marijuana eradication program fee (IC 33-37-5-7).
- (3) An alcohol and drug services program fee (IC 33-37-5-8(b)).
- (4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (5) A drug abuse, prosecution, interdiction, and correction fee (IC 33-37-5-9).
- (6) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (7) A child abuse prevention fee (IC 33-37-5-12).
- (8) A domestic violence prevention and treatment fee (IC 33-37-5-13).
- (9) A highway worksite ~~zone~~ fee (IC 33-37-5-14).
- (10) A deferred prosecution fee (IC 33-37-5-17).
- (11) A document storage fee (IC 33-37-5-20).
- (12) An automated record keeping fee (IC 33-37-5-21).
- (13) A late payment fee (IC 33-37-5-22).
- (14) A sexual assault victims assistance fee (IC 33-37-5-23).
- (15) A public defense administration fee (IC 33-37-5-21.2).
- (16) A judicial insurance adjustment fee (IC 33-37-5-25).
- (17) A judicial salaries fee (IC 33-37-5-26).
- (18) A court administration fee (IC 33-37-5-27).
- (19) A DNA sample processing fee (IC 33-37-5-26.2).

(c) Instead of the criminal costs fee prescribed by this section, except for the automated record keeping fee (IC 33-37-5-21), the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-39-1-8 requires payment of those fees by the accused person. The pretrial diversion program fee is:

- (1) an initial user's fee of fifty dollars (\$50) for a misdemeanor offense;
- (2) an initial user's fee of seventy-five dollars (\$75) for a felony offense;
- (3) a monthly user's fee of twenty dollars (\$20) for each month that the person remains in the pretrial diversion program; and
- (4) any additional program fee or cost that is:
 - (A) reasonably related to the person's rehabilitation; and
 - (B) approved by the court.

A monthly user fee may not be collected beyond the maximum length of the possible sentence.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, not later than thirty (30) days after the fees are collected:

- (1) The pretrial diversion fee.



- (2) The marijuana eradication program fee.
- (3) The alcohol and drug services program fee.
- (4) The law enforcement continuing education program fee.

The auditor or fiscal officer shall deposit fees transferred under this subsection in the appropriate user fee fund established under IC 33-37-8.

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

- (1) The clerk shall apply the partial payment to general court costs.
- (2) If there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the remainder of the partial payment for deposit in the appropriate county user fee fund.
- (3) If there is money remaining after distribution under subdivision (2), the clerk shall distribute the remainder of the partial payment for deposit in the state user fee fund.
- (4) If there is money remaining after distribution under subdivision (3), the clerk shall distribute the remainder of the partial payment to any other applicable user fee fund.
- (5) If there is money remaining after distribution under subdivision (4), the clerk shall apply the remainder of the partial payment to any outstanding fines owed by the defendant.

SECTION 8. IC 33-37-4-2, AS AMENDED BY P.L.85-2017, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

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

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

(b) In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the defendant the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) An alcohol and drug services program fee (IC 33-37-5-8(b)).
- (3) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (4) An alcohol and drug countermeasures fee (IC 33-37-5-10).



- (5) A highway worksite ~~zone~~ fee (IC 33-37-5-14).
- (6) A deferred prosecution fee (IC 33-37-5-17).
- (7) A jury fee (IC 33-37-5-19).
- (8) A document storage fee (IC 33-37-5-20).
- (9) An automated record keeping fee (IC 33-37-5-21).
- (10) A late payment fee (IC 33-37-5-22).
- (11) A public defense administration fee (IC 33-37-5-21.2).
- (12) A judicial insurance adjustment fee (IC 33-37-5-25).
- (13) A judicial salaries fee (IC 33-37-5-26).
- (14) A court administration fee (IC 33-37-5-27).
- (15) A DNA sample processing fee (IC 33-37-5-26.2).

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, not later than thirty (30) days after the fees are collected:

- (1) The alcohol and drug services program fee (IC 33-37-5-8(b)).
- (2) The law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (3) The deferral program fee (subsection (e)).

The auditor or fiscal officer shall deposit the fees in the user fee fund established under IC 33-37-8.

(d) The defendant is not liable for any ordinance violation costs fee in an action if all the following apply:

- (1) The defendant was charged with an ordinance violation subject to IC 33-36.
- (2) The defendant denied the violation under IC 33-36-3.
- (3) Proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (4) The defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), except for the automated record keeping fee (IC 33-37-5-21), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

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

(f) The fees prescribed by this section are costs for purposes of IC 34-28-5-5 and may be collected from a defendant against whom



judgment is entered. Any penalty assessed is in addition to costs."

Page 11, after line 32, begin a new paragraph and insert:

"SECTION 10. IC 33-37-7-2, AS AMENDED BY P.L.30-2019, SECTION 20, AND AS AMENDED BY P.L.144-2019, SECTION 18, AND AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2020 GENERAL ASSEMBLY, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]:
Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-3(a) (juvenile costs fees).
- (4) IC 33-37-4-4(a) (civil costs fees).
- (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (6) IC 33-37-4-7(a) (probate costs fees).
- (7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) One hundred percent (100%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- (5) One hundred percent (100%) of the highway worksite ~~zone~~ fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (6) ~~One hundred percent (100%)~~ *Seventy-five percent (75%)* of the safe schools fee collected under IC 33-37-5-18.
- (7) One hundred percent (100%) of the automated record keeping fee collected under IC 33-37-5-21 not distributed under



subsection (a).

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

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

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

(d) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(e) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance fund established by ~~IC 5-2-6-23(j)~~ IC 5-2-6-23(d) one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

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

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) or the successor statewide automated support enforcement system collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS or the successor statewide automated support enforcement system collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the department of child



services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS, or the successor statewide automated support enforcement system, collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

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

(1) One hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in the county general fund.

(2) One hundred percent (100%) of the small claims garnishee service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for deposit in the county general fund.

(3) *Twenty-five percent (25%) of the safe schools fee collected under IC 33-37-5-18 for deposit in the county general fund.*

(h) This subsection does not apply to court administration fees collected in small claims actions filed in a court described in IC 33-34. The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The judicial salaries fees collected under IC 33-37-5-26.

(3) The DNA sample processing fees collected under IC 33-37-5-26.2.

(4) The court administration fees collected under IC 33-37-5-27.

(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(j) The proceeds of the service fee collected under IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(k) The proceeds of the garnishee service fee collected under IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as follows:



(1) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(l) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the home ownership education account established by IC 5-20-1-27 one hundred percent (100%) of the following:

(1) The mortgage foreclosure counseling and education fees collected under IC 33-37-5-33 (before its expiration on July 1, 2017).

(2) Any civil penalties imposed and collected by a court for a violation of a court order in a foreclosure action under IC 32-30-10.5.

(m) The clerk of a circuit court shall distribute semiannually to the auditor of state one hundred percent (100%) of the pro bono legal services fees collected before July 1, 2022, under IC 33-37-5-31. The auditor of state shall transfer semiannually the pro bono legal services fees to the Indiana Bar Foundation (or a successor entity) as the entity designated to organize and administer the interest on lawyers trust accounts (IOLTA) program under Rule 1.15 of the Rules of Professional Conduct of the Indiana supreme court. The Indiana Bar Foundation shall:

(1) deposit in an appropriate account and otherwise manage the fees the Indiana Bar Foundation receives under this subsection in the same manner the Indiana Bar Foundation deposits and manages the net earnings the Indiana Bar Foundation receives from IOLTA accounts; and

(2) use the fees the Indiana Bar Foundation receives under this subsection to assist or establish approved pro bono legal services programs.

The handling and expenditure of the pro bono legal services fees received under this section by the Indiana Bar Foundation (or its successor entity) are subject to audit by the state board of accounts. The amounts necessary to make the transfers required by this subsection are appropriated from the state general fund.

SECTION 11. IC 33-37-7-8, AS AMENDED BY P.L.144-2019, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 8. (a) The clerk of a city or town court shall



distribute semiannually to the auditor of state as the state share for deposit in the homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(b) The city or town fiscal officer shall distribute monthly to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

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

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) One hundred percent (100%) of the highway worksite zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (4) Seventy-five percent (75%) of the safe schools fee collected



under IC 33-37-5-18.

(5) One hundred percent (100%) of the automated record keeping fee collected under IC 33-37-5-21 not distributed under subsection (a).

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

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

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

(f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the following:

(1) The late payment fees collected under IC 33-37-5-22.

(2) The small claims service fee collected under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2).

(3) The small claims garnishee service fee collected under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3).

(4) Twenty-five percent (25%) of the safe schools fee collected under IC 33-37-5-18.

The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The DNA sample processing fees collected under IC 33-37-5-26.2.

(3) The court administration fees collected under IC 33-37-5-27.

(h) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(i) The clerk of a city or town court shall semiannually distribute to



the auditor of state for deposit in the state general fund seventy-five percent (75%) of the judicial salaries fee collected under IC 33-37-5-26. The city or town fiscal officer shall retain twenty-five percent (25%) of the judicial salaries fee collected under IC 33-37-5-26. The funds retained by the city or town shall be prioritized to fund city or town court operations.

(j) The clerk of a city or town court shall distribute semiannually to the auditor of state one hundred percent (100%) of the pro bono legal services fees collected before July 1, 2022, under IC 33-37-5-31. The auditor of state shall transfer semiannually the pro bono legal services fees to the Indiana Bar Foundation (or a successor entity) as the entity designated to organize and administer the interest on lawyers trust accounts (IOLTA) program under Rule 1.15 of the Rules of Professional Conduct of the Indiana supreme court. The Indiana Bar Foundation shall:

- (1) deposit in an appropriate account and otherwise manage the fees the Indiana Bar Foundation receives under this subsection in the same manner the Indiana Bar Foundation deposits and manages the net earnings the Indiana Bar Foundation receives from IOLTA accounts; and
- (2) use the fees the Indiana Bar Foundation receives under this subsection to assist or establish approved pro bono legal services programs.

The handling and expenditure of the pro bono legal services fees received under this section by the Indiana Bar Foundation (or its successor entity) are subject to audit by the state board of accounts. The amounts necessary to make the transfers required by this subsection are appropriated from the state general fund."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 268 as introduced.)

CRIDER, Chairperson

Committee Vote: Yeas 7, Nays 2.

