



Journal of the Senate

State of Indiana

119th General Assembly

First Regular Session

Fourth Meeting Day

Thursday Afternoon

January 8, 2015

The Senate convened at 9:01 a.m., with the President of the Senate, Sue Ellspermann, in the Chair.

Prayer was offered by Pastor Bruce R. (Randy) Scott, Pentecostals of South Lake Church, Merrillville.

The Pledge of Allegiance to the Flag was led by Senator Lonnie Randolph.

The Chair ordered the roll of the Senate to be called. Those present were:

Alting	Leising
Arnold	Long
Banks, A.	Merritt
Bassler	Messmer
Becker	Miller, Patricia
Boots	Miller, Pete
Bray	Mishler
Breaux	Mrvan <input type="checkbox"/>
Broden <input type="checkbox"/>	Niemeyer
Brown	Perfect
Buck	Raatz
Charbonneau	Randolph
Crider	Rogers
Delph	Schneider <input type="checkbox"/>
Eckerty	Smith
Ford	Steele
Glick	Stoops
Grooms	Tallian
Head	Taylor
Hershman	Tomes
Holdman	Walker
Houchin	Waltz
Kenley	Yoder
Kruse	Young, M. <input type="checkbox"/>
Lanane	Zakas

Roll Call 5: present 46; excused 4. [Note: A indicates those who were excused.] The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

INTRODUCTION OF BILLS

The following bills and resolutions were read a first time by title and referred to the respective committees:

SB 252 — Kenley (Public Policy)

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

SB 284 — Tallian (Health & Provider Services)

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

SB 285 — Tomes (Corrections & Criminal Law)

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

SB 286 — Tomes, Becker (Tax & Fiscal Policy)

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

SB 287 — Young R Michael (Corrections & Criminal Law)

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

SB 288 — Glick (Local Government)

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

SB 289 — Arnold J (Judiciary)

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

SB 290 — Glick (Corrections & Criminal Law)

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

SB 291 — Zakas (Civil Law)

A BILL FOR AN ACT to amend the Indiana Code concerning the general assembly.

SB 292 — Zakas (Judiciary)

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

SB 293 — Miller Patricia (Health & Provider Services)

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

SB 294 — Miller Patricia (Health & Provider Services)

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

SB 295 — Buck (Tax & Fiscal Policy)

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

SB 296 — Buck (Commerce & Technology)

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

SB 297 — Alting (Public Policy)

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

- SB 298** — Banks A (Veterans Affairs & The Military)
A BILL FOR AN ACT to amend the Indiana Code concerning military and veterans.
- SB 299** — Taylor (Education & Career Development)
A BILL FOR AN ACT to amend the Indiana Code concerning education.
- SB 300** — Taylor (Corrections & Criminal Law)
A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.
- SB 301** — Taylor (Education & Career Development)
A BILL FOR AN ACT to amend the Indiana Code concerning education.
- SB 304** — Bray (Education & Career Development)
A BILL FOR AN ACT to amend the Indiana Code concerning education.
- SB 305** — Bray (Civil Law)
A BILL FOR AN ACT to amend the Indiana Code concerning trusts and fiduciaries.
- SB 306** — Bray (Civil Law)
A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.
- SB 307** — Bray (Commerce & Technology)
A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.
- SB 308** — Bray (Judiciary)
A BILL FOR AN ACT to amend the Indiana Code concerning trusts and fiduciaries.
- SB 309** — Crider (Utilities)
A BILL FOR AN ACT to amend the Indiana Code concerning utilities.
- SB 310** — Merritt (Education & Career Development)
A BILL FOR AN ACT to amend the Indiana Code concerning education.
- SB 311** — Charbonneau (Environmental Affairs)
A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.
- SB 312** — Charbonneau (Environmental Affairs)
A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.
- SB 313** — Head (Corrections & Criminal Law)
A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.
- SB 314** — Head (Corrections & Criminal Law)
A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.
- SB 315** — Smith J (Local Government)
A BILL FOR AN ACT to amend the Indiana Code concerning education.
- SB 316** — Smith J (Appropriations)
A BILL FOR AN ACT concerning local government.
- SB 317** — Head (Tax & Fiscal Policy)
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- SB 318** — Head (Local Government)
A BILL FOR AN ACT to amend the Indiana Code concerning health.
- SB 319** — Head (Tax & Fiscal Policy)
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- SB 320** — Smith J (Judiciary)
A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.
- SB 321** — Head (Local Government)
A BILL FOR AN ACT to amend the Indiana Code concerning local government.
- SB 322** — Head (Commerce & Technology)
A BILL FOR AN ACT to amend the Indiana Code concerning health and to make an appropriation.
- SB 323** — Head (Family & Children Services)
A BILL FOR AN ACT to amend the Indiana Code concerning health.
- SB 324** — Head, Brown L (Judiciary)
A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.
- SB 325** — Head (Public Policy)
A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.
- SB 326** — Head (Tax & Fiscal Policy)
A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.
- SB 327** — Leising (Public Policy)
A BILL FOR AN ACT to amend the Indiana Code concerning gaming.
- SB 328** — Leising (Health & Provider Services)
A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.
- SB 329** — Brown L (Health & Provider Services)
A BILL FOR AN ACT to amend the Indiana Code concerning health.
- SB 330** — Boots, Head (Local Government)
A BILL FOR AN ACT to amend the Indiana Code concerning local government.
- SB 331** — Boots (Education & Career Development)
A BILL FOR AN ACT to amend the Indiana Code concerning education.

- SB 332** — Boots (Pensions & Labor)
A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.
- SB 333** — Miller Pete (Corrections & Criminal Law)
A BILL FOR AN ACT to amend the Indiana Code concerning business and other associations.
- SB 334** — Holdman (Health & Provider Services)
A BILL FOR AN ACT to amend the Indiana Code concerning health.
- SB 335** — Messmer (Utilities)
A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.
- SB 336** — Messmer (Local Government)
A BILL FOR AN ACT to amend the Indiana Code concerning local government.
- SB 337** — Messmer (Public Policy)
A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.
- SB 338** — Messmer (Public Policy)
A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.
- SB 339** — Rogers, Kruse (Education & Career Development)
A BILL FOR AN ACT to amend the Indiana Code concerning education.
- SB 340** — Rogers (Education & Career Development)
A BILL FOR AN ACT to amend the Indiana Code concerning education and to make an appropriation.
- SB 341** — Rogers (Homeland Security & Transportation)
A BILL FOR AN ACT to amend the Indiana Code concerning property.
- SB 342** — Rogers (Homeland Security & Transportation)
A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.
- SB 343** — Rogers (Homeland Security & Transportation)
A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.
- SB 344** — Rogers (Education & Career Development)
A BILL FOR AN ACT to amend the Indiana Code concerning education and to make an appropriation.
- SB 345** — Rogers (Appropriations)
A BILL FOR AN ACT to amend the Indiana Code concerning education.
- SB 346** — Brown L (Tax & Fiscal Policy)
A BILL FOR AN ACT to amend the Indiana Code concerning local government.
- SB 347** — Yoder (Homeland Security & Transportation)
A BILL FOR AN ACT to amend the Indiana Code concerning transportation.
- SB 348** — Yoder (Homeland Security & Transportation)
A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.
- SB 349** — Randolph (Veterans Affairs & The Military)
A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.
- SB 350** — Randolph (Elections)
A BILL FOR AN ACT to amend the Indiana Code concerning education.
- SB 351** — Randolph (Family & Children Services)
A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.
- SB 352** — Steele, Delph (Judiciary)
A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.
- SB 353** — Steele (Elections)
A BILL FOR AN ACT to amend the Indiana Code concerning elections.
- SB 354** — Steele (Judiciary)
A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.
- SB 355** — Steele (Civil Law)
A BILL FOR AN ACT to amend the Indiana Code concerning probate.
- SB 356** — Grooms (Appropriations)
A BILL FOR AN ACT to amend the Indiana Code concerning education.
- SB 357** — Grooms (Veterans Affairs & The Military)
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- SB 358** — Grooms (Family & Children Services)
A BILL FOR AN ACT to amend the Indiana Code concerning Medicaid.
- SB 359** — Messmer (Tax & Fiscal Policy)
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.
- SB 360** — Messmer (Utilities)
A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.
- SB 361** — Messmer (Civil Law)
A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.
- SB 362** — Broden (Homeland Security & Transportation)
A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.
- SB 363** — Broden (Corrections & Criminal Law)
A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

SB 364 — Broden (Family & Children Services)

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

SB 365 — Waltz (Judiciary)

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

SJR 12 — Steele (Agriculture)

A JOINT RESOLUTION proposing an amendment to Article 1 of the Constitution of the State of Indiana by adding a new section concerning farming and ranching.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill 57, 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, between lines 41 and 42, begin a new paragraph and insert:

"(f) The filing fee for a petition to settle and allow an account filed under this section is a legitimate expense of the principal or the principal's estate."

(Reference is to SB 57 as introduced.)

and when so amended that said bill do pass
Committee Vote: Yeas 9, Nays 1.

STEELE, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Rules & Legislative Procedure, to which was referred Senate Bill 100, 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:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 10-19-12 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 12. Cease and Desist Orders

Sec. 1. As used in this chapter, "executive" has the meaning set forth in IC 36-1-2-5.

Sec. 2. As used in this chapter, "federal flood insurance program" means the program operated under 42 U.S.C 4001 et seq. under which coverage for property damage caused by flooding is provided by the federal government and the private insurance industry.

Sec. 3. As used in this chapter, "FEMA mitigation grant program" means a program administered by the Federal

Emergency Management Agency under 42 U.S.C 5170c under which the state, as applicant, selects and prioritizes applications developed and submitted by political subdivisions for grant funds to finance mitigation measures, including the acquisition and relocation of structures from hazard prone areas, after a disaster.

Sec. 4. As used in this chapter, "intentionally" has the meaning set forth in IC 35-41-2-2(a).

Sec. 5. As used in this chapter, "knowingly" has the meaning set forth in IC 35-41-2-2(b).

Sec. 6. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

Sec. 7. (a) Notwithstanding any other law, if the executive director of the department of homeland security determines that an action of a political subdivision:

(1) constitutes a violation of:

- (A) any state or federal statute or local ordinance;
- (B) any state administrative rule or federal regulation; or
- (C) any contract provision, including a contract provision that the state is required to enforce, or condition of the receipt of any form of federal governmental assistance; and

(2) creates an immediate risk that:

- (A) the state will lose grant funds under the FEMA mitigation grant program; or
- (B) property owners in any part of Indiana will become ineligible to purchase insurance through the federal flood insurance program;

the executive director shall issue a cease and desist order demanding that the political subdivision immediately stop the action.

(b) A proceeding resulting in the issuance of a cease and desist order under subsection (a) may be conducted under IC 4-21.5-3 or IC 4-21.5-4. If the proceeding is conducted under IC 4-21.5-4, a cease and desist order may be issued under subsection (a):

- (1) by the executive director under IC 4-21.5-4-2(a)(1), without notice or an evidentiary proceeding; or
- (2) under IC 4-21.5-4-2(a)(2), after a hearing conducted by an administrative law judge.

(c) If a cease and desist order is issued under subsection (b)(1), the political subdivision may request a hearing on the order under IC 4-21.5-4-4.

(d) A cease and desist order issued in a proceeding conducted under IC 4-21.5-4:

(1) remains in effect until:

- (A) the expiration date set in the order; or
- (B) if earlier, the ninety-first day after the order is issued;

as provided in IC 4-21.5-4-5(a); and

(2) may be renewed under 4-21.5-4-5(b).

Sec. 8. A cease and desist order issued under section 7 of this chapter may be issued against and be binding upon:

- (1) the political subdivision taking the action described in section 7(a) of this chapter;
- (2) the:

- (A) executive; or
 - (B) members of the executive;
- of the political subdivision taking the action described in section 7(a) of this chapter;
- (3) any contractor participating in the action of the political subdivision described in section 7(a) of this chapter; and
 - (4) any subcontractor of a contractor described in subdivision (3).

Sec. 9. A cease and desist order issued under section 7 of this chapter is enforceable in circuit or superior court. The attorney general may bring an action in the circuit or superior court of:

- (1) Marion County; or
- (2) the county in which the political subdivision is located;

to enforce the order. In an action brought under this section, the attorney general may petition the court for a permanent injunction against the action of the political subdivision described in section 7(a) of this chapter.

Sec. 10. (a) A political subdivision that:

- (1) is subject to a cease and desist order issued under section 7 of this chapter; and
- (2) violates the order;

is subject to a civil penalty of ten thousand dollars (\$10,000) per day until the political subdivision complies with the cease and desist order.

(b) If a civil penalty imposed under subsection (a) is not paid by the political subdivision within a reasonable time, the amount of the civil penalty may be:

- (1) withheld by the auditor of state from moneys payable to the political subdivision; or
- (2) recovered in a suit brought in the circuit or superior court of:

- (A) Marion County; or
- (B) the county in which the political subdivision is located;

by the state in an action brought by the attorney general.

Sec. 11. The issuance of a cease and desist order under this chapter does not relieve any political subdivision or any officer of a political subdivision from prosecution or adverse legal consequences under any other law.

Sec. 12. An individual described in section 8(2), 8(3), or 8(4) of this chapter:

- (1) against whom a cease and desist order is issued under section 7 of this chapter; and
- (2) who knowingly or intentionally violates the cease and desist order;

commits a Class A infraction.

SECTION 2. An emergency is declared for this act.

(Reference is to SB 100 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Environmental Affairs.

LONG, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Rules & Legislative Procedure, to which was referred Senate Bill 145, 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:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-3.1-21-6, AS AMENDED BY P.L.229-2011, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]: Sec. 6. (a) Except as provided by subsection (b), an individual who is eligible for an earned income tax credit under Section 32 of the Internal Revenue Code, as it existed before being amended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312), is eligible for a credit under this chapter equal to ~~nine percent (9%)~~ **ten percent (10%)** of the amount of the federal earned income tax credit that the individual:

- (1) is eligible to receive in the taxable year; and
- (2) claimed for the taxable year;

under Section 32 of the Internal Revenue Code as it existed before being amended by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312).

(b) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the amount of the credit is equal to the product of:

- (1) the amount determined under subsection (a); multiplied by
- (2) the quotient of the taxpayer's income taxable in Indiana divided by the taxpayer's total income.

(c) If the credit amount exceeds the taxpayer's adjusted gross income tax liability for the taxable year, the excess, less any advance payments of the credit made by the taxpayer's employer under IC 6-3-4-8 that reduce the excess, shall be refunded to the taxpayer.

SECTION 2. [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)] (a) **IC 6-3.1-21-6, as amended by this act, applies only to taxable years beginning after December 31, 2014.**

(b) **This SECTION expires January 1, 2018.**

SECTION 3. **An emergency is declared for this act.**

(Reference is to SB 145 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Appropriations.

LONG, Chair

Report adopted.

SENATE MOTION

Madam President: I move that the following resolution be adopted:

SR 9 Senator Pete Miller
Congratulating the Tri-West High School football team on its Class 3A championship.

LONG

Motion prevailed.

RESOLUTIONS ON FIRST READING

Senate Resolution 9

Senate Resolution 9, introduced by Senator Pete Miller:

A SENATE RESOLUTION congratulating the Tri-West High School football team on its Class 3A state championship victory.

Whereas, During the Class 3A football finals on November 29, 2014, the Tri-West Bruins captured the state title, defeating the Andean Fighting 59ers with a score of 49-27;

Whereas, Tied at the beginning of the second half, the team broke ahead with three straight touchdowns after halftime, led by running back Wesley Cook, who overall rushed for 218 yards on 14 carries, and recorded the longest kickoff return of 89 yards in Class 3A state championship game history;

Whereas, Quarterback Jake Hendershot also broke an 11-year-old Class 3A record with 279 passing yards in the state championship game;

Whereas, The Bruin's state championship win rounded out a 14-1 season and was the fourth time the team had defeated a ranked opponent in its six tournament games;

Whereas, Following the championship game, the Indiana High School Athletics Association named Nick Sprecher as the winner of the Phil N. Eskew Mental Attitude Award in Class 3A football for excelling in both academics and athletics; and

Whereas, The Bruins' title marks their first 3A championship and fourth state championship overall, having won the Class 2A championship in 2003 and 2004, and Class A championship in 1996: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana Senate congratulates the Tri-West High School football team on its Class 3A state championship victory.

SECTION 2. The Secretary of the Senate is hereby directed to transmit copies of this Resolution to Tri-West High School Principal Adam Benner, Head Coach Chris Coll, and the members of the Tri-West High School Football team.

The resolution was read in full and adopted by voice vote.

SENATE MOTION

Madam President: I move that Senator Long be removed as first author and Senator Buck be substituted therefor of Senate Bill 100.

LONG

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Lanane be removed as

first author and Senator Tallian be substituted therefor of Senate Bill 145.

LANANE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Arnold be added as second author of Senate Bill 224.

CRIDER

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Grooms be added as third author of Senate Bill 286.

TOMES

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Brown be added as second author and Senator Arnold be added as coauthor of Senate Bill 168.

PATRICIA MILLER

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Yoder be added as coauthor of Senate Bill 193.

ARNOLD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Rogers be added as second author, Senator Charbonneau be added as third author, and Senator Niemeyer be added as coauthor of Senate Bill 193.

ARNOLD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Niemeyer be added as second author of Senate Bill 189.

ARNOLD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Steele be added as second author and Senator Broden be added as coauthor of Senate Bill 289.

ARNOLD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Head be added as second author of Senate Bill 279.

MERRITT

Motion prevailed.

SENATE MOTION

Madam President: I move we adjourn until 1:30 p.m., Monday, January 12, 2015.

LONG

Motion prevailed.

The Senate adjourned at 9:11 a.m.

JENNIFER L. MERTZ
Secretary of the Senate

SUE ELLSPERMANN
President of the Senate