



# Journal of the Senate

State of Indiana

119th General Assembly

First Regular Session

Ninth Meeting Day

Tuesday Afternoon

January 20, 2015

The Senate convened at 1:32 p.m., with the President of the Senate, Sue Ellspermann, in the Chair.

Prayer was offered by Chaplain Andrew Green, Department Chaplain, Howard County Criminal Justice Center and Howard County Sheriff's Office.

The Pledge of Allegiance to the Flag was led by Senator James R. Buck.

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

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

Roll Call 12: present 48; excused 2. [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 0439** — Hershman (Health & Provider Services)

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

**SB 0545** — Taylor (Education & Career Development)

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

**SB 0554** — Randolph (Insurance & Financial Institutions)

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

**SB 0555** — Walker (Pensions & Labor)

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

**SB 0556** — Yoder (Homeland Security & Transportation)

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

**SB 0557** — Taylor (Corrections & Criminal Law)

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

**SB 0558** — Delph (Tax & Fiscal Policy)

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

**SB 0559** — Young R Michael (Corrections & Criminal Law)

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

**SB 0560** — Young R Michael, Waltz (Tax & Fiscal Policy)

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

**SB 0561** — Tomes (Commerce & Technology)

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

**SB 0562** — Raatz, Kruse (Education & Career Development)

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

**SB 0563** — Stoops (Environmental Affairs)

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

**SB 0564** — Zakas (Family & Children Services)

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

**SB 0565** — Zakas (Judiciary)

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

**SB 0566** — Mishler, Kenley, Charbonneau (Education & Career Development)

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

**SB 0567** — Miller Pete (Local Government)

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

**SB 0568** — Schneider, Kruse, Steele, Yoder, Buck, Banks A, Brown L, Smith J, Tomes, Walker (Judiciary)

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

**SB 0569** — Schneider (Utilities)

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

**SB 0570** — Breaux (Health & Provider Services)

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

**SJR 21** — Long (Rules & Legislative Procedure)

A JOINT RESOLUTION proposing an amendment to the Constitution of the State of Indiana.

## RESOLUTIONS ON FIRST READING

### Senate Concurrent Resolution 7

Senate Concurrent Resolution 7, introduced by Senator Delph:

A CONCURRENT RESOLUTION urging Congress to defund President Obama's amnesty for unauthorized immigrants program.

*Whereas, 8 U.S.C. 1101(a) defines an alien as "any person not a citizen or national of the United States";*

*Whereas, As defined by Wex Legal Dictionary, undocumented, or illegal, immigrants are "foreign nationals who lack proper authorization to be in the United States" and either entered the United States without proper inspection or on a temporary visa and stayed beyond the expiration date of the visa;*

*Whereas, SECTION 1 of Senate Enrolled Act 590, passed by the 2011 Indiana General Assembly, charged the Office of Management and Budget (OMB) to calculate an estimate of the total costs of illegal aliens to the state of Indiana and to make a written request to the Congress of the United States to reimburse the state of Indiana for the calculated costs;*

*Whereas, These costs include education, incarceration of criminals, health care, and public assistance;*

*Whereas, The OMB determined that, during CY 2012, the estimated annual cost to the state for K-12 tuition for illegal aliens was \$110,644,011;*

*Whereas, As of June 1, 2012, Indiana had 661 adult offenders classified as aliens incarcerated in Department of Correction facilities costing the state approximately \$12,340,982.75;*

*Whereas, Illegal aliens are eligible for Medicaid in*

*emergency situations if the alien meets the residency and other Medicaid policy eligibility criteria but is eligible for Medicaid only for treatment of certain medical conditions;*

*Whereas, The Family and Social Services Administration (FSSA) accounted for \$10,204,392 of total incurred and paid claims for emergency Medicaid services for calendar year 2010; the state's share of this cost was \$3,401,464;*

*Whereas, The Department of Child Services (DCS) costs for child in need of service cases was \$3,075,144.45 and the total cost for youth probation was estimated to be \$1,492,376.79, bringing the cost to \$4,567,521.24 for services provided to illegal aliens through DCS;*

*Whereas, The total cost of illegal aliens living in Indiana for health care and public assistance is estimated to be \$7,968,985.24;*

*Whereas, The OMB determined that the total cost of illegal aliens to the State of Indiana was \$130,953,979;*

*Whereas, Over the past five years the State Criminal Alien Assistance Program, a program that provides federal payments to states that incur costs for incarcerating illegal aliens, has provided nearly \$5,000,000 to help cover Indiana's costs to incarcerate illegal aliens; however, this figure does not change the amount paid by Indiana to incarcerate illegal aliens;*

*Whereas, The OMB, at the request of the Indiana General Assembly, should secure more up-to-date figures regarding the total cost of illegal aliens to Hoosier taxpayers in relationship to President Obama's amnesty program;*

*Whereas, When these updated figures are obtained, they should be given to the Legislative Council;*

*Whereas, President Obama's unilateral action concerning amnesty for unauthorized immigrants imposes a direct cost on the state and local governments of Indiana;*

*Whereas, A District of Columbia based nongovernmental organization estimated the 2010 illegal alien population at 120,000 and the cost of supporting these illegal aliens at \$608,492,238;*

*Whereas, Education for children of illegal aliens makes up the single largest cost to Hoosier taxpayers, with nearly all these costs being absorbed by state and local governments;*

*Whereas, The United States Supreme Court has recognized that "Congress may always circumscribe agency discretion to allocate resources by putting restrictions in the operative statutes";*

*Whereas, Article 1, Section 8 of the United States Constitution gives Congress the authority to defund the amnesty program;*

*Whereas, Based on this power, the members of the Indiana General Assembly request that the United States Congress use this authority to defund the President's actions; and*

*Whereas, If Congress does not choose to defund the amnesty for unauthorized immigrants program, Congress should approve reimbursing the State of Indiana for all the costs associated with this program: Therefore,*

*Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly finds President Obama's unilateral actions concerning amnesty for unauthorized immigrants unconstitutional and encourages Congress to defund the President's amnesty program.

SECTION 2. That if the members of Congress choose not to defund the amnesty for unauthorized immigrants, the Office of Management and Budget, under the Pence Administration, should calculate the costs to the State of Indiana associated with this program and submit a bill to Congress for reimbursement.

SECTION 3. That copies of this resolution be transmitted by the Secretary of the Senate to President Obama, the Speaker of the United States House of Representatives, the Majority Leader of the United States Senate, each member of the Indiana Congressional delegation, and each member of the United States Supreme Court.

The resolution was read in full and referred to the Committee on Judiciary.

## REPORTS FROM COMMITTEES

### COMMITTEE REPORT

Madam President: The Senate Committee on Tax & Fiscal Policy, to which was referred Senate Bill 25, 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, line 30, delete "apply for" and insert "**receive**".

Page 2, line 30, after "of" insert ":

**(1)**.

Page 2, line 34, delete "." and insert "**;** and

**(2) any penalties and interest that have been assessed and paid to the department by the dealer that are attributable to the registration fees or the gross retail or use taxes for which a refund is claimed by the dealer under subdivision (1).**"

Page 2, line 34, beginning with "The" begin a new line blocked left.

(Reference is to SB 25 as printed January 8, 2015.) and when so amended that said bill do pass.

Committee Vote: Yeas 12, Nays 0.

HERSHMAN, Chair

Report adopted.

### COMMITTEE REPORT

Madam President: The Senate Committee on Rules & Legislative Procedure, to which was referred Senate Bill 101, 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 civil procedure.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 34-13-9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

#### **Chapter 9. Religious Freedom Restoration**

**Sec. 1. This chapter applies to all governmental entity statutes, ordinances, resolutions, executive or administrative orders, regulations, customs, and usages regardless of whether they were enacted, adopted, or initiated before, on, or after July 1, 2015.**

**Sec. 2. A governmental entity statute, ordinance, resolution, executive or administrative order, regulation, custom, or usage may not be construed to be exempt from the application of this chapter unless a state statute expressly exempts the statute, ordinance, resolution, executive or administrative order, regulation, custom, or usage from the application of this chapter by citation to this chapter.**

**Sec. 3. (a) The following definitions apply throughout this section:**

**(1) "Establishment Clause" refers to the part of the First Amendment of the Constitution of the United States or the Constitution of the State of Indiana prohibiting laws respecting the establishment of religion.**

**(2) "Granting", used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.**

**(b) This chapter may not be construed to affect, interpret, or in any way address the Establishment Clause.**

**(c) Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, does not constitute a violation of this chapter.**

**Sec. 4. As used in this chapter, "demonstrates" means meets the burdens of going forward with the evidence and of persuasion.**

**Sec. 5. As used in this chapter, "exercise of religion" includes any exercise of religion, whether or not compelled by, or central to, a system of religious belief.**

**Sec. 6. As used in this chapter, "governmental entity" includes a branch, department, agency, instrumentality, official, or other individual or entity acting under color of law of any of the following:**

**(1) State government.**

**(2) A political subdivision (as defined in IC 36-1-2-13).**

**(3) An instrumentality of a governmental entity**

described in subdivision (1) or (2).

Sec. 7. As used in this chapter, "person" includes the following:

- (1) An individual.
- (2) An organization, a religious society, a church, a body of communicants, or a group organized and operated primarily for religious purposes.
- (3) A partnership, a limited liability company, a corporation, a company, a firm, a society, a joint-stock company, an unincorporated association, or another entity that:
  - (A) may sue and be sued; and
  - (B) exercises practices that are compelled or limited by a system of religious belief held by:
    - (i) an individual; or
    - (ii) the individuals;

who have control and substantial ownership of the entity, regardless of whether the entity is organized and operated for profit or nonprofit purposes.

Sec. 8. (a) Except as provided in subsection (b), a governmental entity may not substantially burden a person's exercise of religion, even if the burden results from a rule of general applicability.

(b) A governmental entity may substantially burden a person's exercise of religion only if the governmental entity demonstrates that application of the burden to the person:

- (1) is in furtherance of a compelling governmental interest; and
- (2) is the least restrictive means of furthering that compelling governmental interest.

Sec. 9. A person whose exercise of religion is substantially burdened by a violation of this chapter may enforce this chapter against a governmental entity in any judicial or administrative proceeding by:

- (1) asserting the violation as a claim or defense; and
- (2) if the governmental entity is not a party to the proceeding, joining the governmental entity as a party in the proceeding;

in accordance with the procedural rules applicable to the court or other tribunal.

Sec. 10. If a court or other tribunal in which a violation of this chapter is asserted in conformity with section 9 of this chapter determines that:

- (1) the person's exercise of religion has been substantially violated; and
- (2) the governmental entity imposing the burden has not demonstrated that the burden to the person:
  - (A) is in furtherance of a compelling governmental interest; and
  - (B) is the least restrictive means of furthering that compelling governmental interest;

the court or other tribunal shall grant appropriate relief against the governmental entity. Relief may include an injunction or mandate that prevents, restrains, corrects, or abates the violation of this chapter.

(Reference is to SB 101 as introduced.) and when so amended that said bill be reassigned to the Senate Committee on Judiciary.

LONG, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections & Criminal Law, to which was referred Senate Bill 175, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass. Committee Vote: Yeas 10, Nays 0.

M. YOUNG, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections & Criminal Law, to which was referred Senate Bill 212, 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 1, line 13, delete ";" and insert "**and resides in a department facility or jail;**".

Page 1, line 15, delete "and".

Page 1, line 16, after "(3)" insert "**is unwilling or unable to pay for the inmate's own health care services; and**

**(4)**".

Page 2, line 24, delete "and".

Page 2, line 25, after "(3)" insert "**is unwilling or unable to pay for the person's own health care services; and**

**(4)**".

(Reference is to SB 212 as introduced.) and when so amended that said bill do pass. Committee Vote: Yeas 8, Nays 0.

M. YOUNG, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Veterans Affairs & The Military, to which was referred Senate Bill 262, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass and be reassigned to the Senate Committee on Appropriations. Committee Vote: Yeas 7, Nays 0.

CRIDER, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Veterans Affairs & The Military, to which was referred Senate Bill 298, 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 1, line 14, delete "subdivision of the state, such as a municipality, county," and insert "**political subdivision (as defined in IC 36-1-2-13); or**".

Page 1, delete line 15.

Page 1, line 16, delete "public institution of higher education." and insert "**state educational institution (as defined in IC 21-7-13-32).**".

Page 2, line 24, delete "and the".

Page 2, line 25, delete "department of workforce development".

(Reference is to SB 298 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 6, Nays 0.

CRIDER, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Commerce & Technology, to which was referred Senate Bill 307, 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 9, after line 32, begin a new paragraph and insert:

"SECTION 15. IC 30-2-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. As used in this chapter, "contract" means **either of the following**:

(1) A written agreement between a purchaser and a seller that:

- (+) (A) obligates the seller to provide prepaid services or merchandise, or both, for a named individual; and
- (-) (B) becomes irrevocable thirty (30) days after the written agreement is signed by the purchaser and seller.

(2) An agreement that:

(A) is entered into after June 30, 2015; and

(B) provides for the issuance of a life insurance policy under both of the following circumstances:

- (i) The death benefit of the life insurance policy is or may be designated for use in the purchase of services or merchandise.
- (ii) The life insurance policy is intended to be an exempt resource for Medicaid qualification purposes.

SECTION 16. IC 30-2-13-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10. (a) As used in this chapter, "seller" means a person doing business as a sole proprietor, a firm, a limited liability company, a corporation, an association, or a partnership contracting to provide services or merchandise, or both, to a named individual.

(b) The term includes the issuer of a contract described in section 4(2) of this chapter.

SECTION 17. IC 30-2-13-12.5, AS AMENDED BY P.L.61-2008, SECTION 7, IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 12.5. (a) This section applies to the following contracts entered into or established under this chapter after June 30, 1999:

- (1) Contracts for prepaid services.
- (2) Contracts for prepaid merchandise.
- (3) Trusts or escrows established to hold consideration paid for services or merchandise subject to a contract entered into under this chapter.
- (4) **Contracts described in section 4(2) of this chapter.**

(b) A contract between a purchaser and a seller must:

- (1) specify that the consideration for the contract is:
  - (A) cash, payable either in a lump sum or in installments; or
  - (B) an insurance policy that is:
    - (i) newly issued in conjunction with and integral to the contract;
    - (ii) issued previously in a transaction separate and distinct from the contract; or
    - (iii) both.

If a contract is funded with an insurance policy, the ownership of the policy must be irrevocably assigned to a trustee, and the seller may not borrow against, pledge, withdraw, or impair the cash value of the policy;

- (2) specify that only the purchaser, acting by written notice to the seller, may revoke the contract within thirty (30) days after the date the contract is signed by the purchaser and the seller and that the contract becomes irrevocable upon the expiration of the thirty (30) day period;
- (3) specify that, if the contract is revoked, the seller shall refund and return to the purchaser, without interest, the cash or insurance policy used to fund the contract;
- (4) specify that not more than thirty (30) days after the contract is signed by the purchaser and the seller, the whole of the cash or insurance policy serving as consideration for the contract must be deposited into a trust or escrow authorized by subsection (c) or (d). However, a seller may elect to serve as trustee of a previously existing life insurance contract;
- (5) except as provided in subsection (f), unconditionally require that the seller shall deliver all services or merchandise, or both, specified in the contract and receive as consideration for the delivery of services or merchandise, or both, only the cash or insurance policy held in trust or escrow without regard to the solvency of the insurer or the adequacy or loss in value of any cash deposit or insurance policy used to fund a contract;
- (6) except as provided in subsection (f), prohibit a seller from imposing additional charges to recover any shortage or difference between the retail prices for services or merchandise, or both, in effect on the date of delivery of the services or merchandise, or both, and the value of the trust or escrow applicable to the contract on the date of delivery;
- (7) require that a seller accepting the transfer of a contract

permitted under section 13 of this chapter shall honor the requirements and obligations of the contract;

(8) permit the seller to assess a finance charge on a contract sold on an installment basis and require that the seller disclose to the purchaser the applicable requirements of federal and Indiana law;

(9) provide that the contract must comply with the following requirements:

(A) The contract must be made in a form that is:

- (i) written in clear and understandable language; and
- (ii) printed in a size and style of type that is easy to read.

(B) The contract must describe the services, merchandise, or cash advance items being purchased. If the merchandise or cash advance items include a vault (as defined in IC 23-14-33-33) that:

- (i) will be used to encase the remains of a deceased individual; and
- (ii) is not airtight and watertight;

the contract must include a written statement indicating that the vault is not airtight and watertight.

(C) The contract must identify the following by name, address, and telephone number:

- (i) The seller.
- (ii) The purchaser.
- (iii) The contract beneficiary if the beneficiary is an individual other than the purchaser.

(D) The contract must contain the seller's certificate of authority number and the date of the contract.

(E) The contract must provide that if an item of the particular services or merchandise specified in the contract is unavailable at the time of delivery, the seller shall deliver services or merchandise similar in style, quality, and of equal value to the unavailable item in the place of the item.

(F) The contract must disclose the precise manner in which the contract is to be funded by:

- (i) identifying the consideration for the contract;
- (ii) identifying the name, number, if known, and issuer of any insurance policy used to fund the contract; and
- (iii) including the identity and location of the trustee or escrow agent, acting as fiduciary, who is to hold the trust or escrow.

(G) The contract must disclose that the seller reserves the right to assess an extra charge for:

- (i) transportation costs;
- (ii) services or merchandise incurred in the transport of human remains a distance greater than twenty-five (25) miles from the seller's place of business; and
- (iii) service charges necessarily incident to the transport of human remains and in excess of those service charges specified in the contract.

(H) The contract must disclose the following:

(i) The amount, if any, the seller has elected to receive under subsection (c)(1) or subsection (d)(6).

(ii) That a commission or fee may be paid to the seller or the seller's agent on a contract funded under subsection (b)(1)(B)(i).

(10) specify that a purchaser has the unrestricted right to designate one (1) or more successor sellers to whom the contract may be transferred under section 13 of this chapter, but that such a transfer is effective only with the consent of the newly designated seller and upon the fulfillment of the other requirements of section 13 of this chapter;

(11) specify that if cash advance items are funded in the contract, the seller agrees to deliver the cash advance items under one (1) of the following alternatives:

(A) Delivery is unconditionally guaranteed at the option of the seller.

(B) Delivery is conditionally guaranteed for a seller and will be equal in value to the total value of the trust or escrow account maintained for the purchaser multiplied by the percentage of the total original contract price represented by cash advance items;

(12) specify that a release from trust or escrow shall occur only upon the seller's delivery of services or merchandise, or both;

(13) permit, at the option of the seller, the incorporation of the trust or escrow language contained in subsection (c) or (d) directly into the contract;

(14) prohibit the seller from charging any service, transaction, or other type of fee or charge unless the fee is:

(A) authorized under subsections (c)(1) and (d)(6) and section 27 of this chapter; or

(B) included within the definitions contained in section 8 or 11.5 of this chapter.

(c) A trust account authorized and established under this chapter must do all of the following:

(1) Be irrevocable and require either of the following:

(A) The seller deposit the insurance policy used to fund the contract into the trust account. However, for contracts funded after June 30, 1995, with a previously issued insurance policy, the seller may serve instead of a trustee if the seller is qualified to do so under section 11(c) of this chapter.

(B) The seller deposit the cash used to fund the contract into the trust account. However, as consideration for the sale of the contract and any expense incurred by the seller in conjunction with the sale of the contract, the contract must permit the seller to notify, within a ten (10) day period following the date the contract becomes irrevocable, the trustee of its election to receive only up to ten percent (10%) of the seller's original contract price for services or merchandise, or both.

(2) Designate the seller as the beneficiary of the trust.

(3) Designate a trustee qualified under this chapter and

authorize the trustee to assess the charges authorized under section 18 of this chapter.

(4) Require that a separate account be maintained in the name of each purchaser.

(5) Require that any interest, dividend, or accumulation in the account be reinvested and added to the principal.

(6) Permit the assets of the several, separate accounts to be commingled for investment purposes.

(7) Require that on receipt of the seller's proof of delivery of services or merchandise the trustee shall remit to the seller the full amount in trust applicable to the purchaser's contract and all of the accumulated interest.

(8) Permit the seller to retain the remaining amount if the amount in the trust account is greater than the seller's total current retail price of all services and merchandise subject to the contract at the time of delivery of all services or merchandise subject to the contract. However, in the case of a contract funded under subsection (b)(1)(B)(ii), the seller may not retain the remaining amount but must pay the remaining amount to the entity or individual designated by the insured as the beneficiary of the death benefit proceeds not later than sixty (60) days after the receipt and deposit of the proceeds by the seller. The seller may not qualify as a beneficiary of the remaining amount or the insurance death benefit. In the case of all other contracts funded under this chapter, the seller may opt to return the remaining amount to the individual designated by the purchaser to receive the remainder or to the purchaser's estate.

(d) An escrow account authorized and established under this chapter must do all of the following:

(1) Be irrevocable and require that the seller deposit all cash or the insurance policy used to fund the contract into the escrow account.

(2) Designate the seller as the recipient of the escrow funds.

(3) Designate an escrow agent, acting as fiduciary, qualified under this chapter to act as escrow agent acting as fiduciary and authorize the escrow agent acting as fiduciary to assess the charges authorized under section 18 of this chapter.

(4) Require that the escrow account be maintained in the name of the seller and serve as a depository for all cash or insurance policies used to fund contracts sold by the seller.

(5) Permit the investment of and commingling of cash for investment purposes.

(6) Permit the seller to receive an administrative or service fee at the option of the seller. The seller may opt to receive the fee after the day following the date the contract becomes irrevocable. The amount of the fee may not exceed ten percent (10%) of the seller's total contract price for services or merchandise or both.

(7) Require that on delivery of services or merchandise, the escrow agent shall remit to the seller an amount equal to:

(A) the seller's original retail price as set forth in the contract for the services or merchandise delivered; minus

(B) the amount, if any, received by the seller under subdivision (6).

(8) Permit the seller to receive monthly payments of the interest earned and the appreciation in the value of the escrow assets to the extent that the total value of the escrow after a payment authorized under this subdivision is not less than:

(A) the original contract value of all services or merchandise under the contracts, or parts of the contracts that remain undelivered; minus

(B) the amounts, if any, received by the seller under subdivision (6).

(e) A trust account or an escrow account established under this section must contain a concise written description of all the provisions of this chapter that apply to the account.

(f) A seller's guarantee of delivery of all services or merchandise subject to a contract sold by the seller or transferred to a seller is unconditional except in the instance of one (1) of the following circumstances:

(1) An installment contract funded with cash or an insurance policy issued in conjunction with the contract is guaranteed to the extent of the cash paid or death benefits available at the time of death of the individual for whom services or merchandise are to be provided.

(2) A contract funded with an insurance policy issued previously and not in conjunction with the contract is guaranteed to the extent of the death benefit proceeds available at the time of the individual for whom services or merchandise are to be provided.

(3) A contract funded with an insurance policy issued in conjunction with the contract, but having a limited or qualified death benefit period, is guaranteed to the extent of the death benefit proceeds available at the time of the death of the individual for whom services or merchandise are to be provided.

(4) A transportation expense incurred by the seller while transporting human remains a distance greater than twenty-five (25) miles from the seller's place of business, plus any charge for services or merchandise necessarily incident to the transport of the human remains.

(5) The seller agrees to conditionally guarantee the delivery of cash advance items under subsection (b)(11)(B).

In the instance of unguaranteed delivery, the seller may reduce the value or number of the services or merchandise subject to the contract or cash advance items delivered or deliver the services or merchandise in full on the condition that the seller receives adequate consideration to compensate the seller for the unguaranteed part of the contract.

(g) The entire value of an escrow or trust established under this chapter may not be considered as a resource in determining a person's eligibility for Medicaid under IC 12-15-2-17.

(h) This chapter does not prohibit a purchaser from immediately making the trust or escrow required under this chapter irrevocable and assigning ownership of an insurance policy used to fund a contract to obtain favorable consideration for Medicaid, Supplemental Security Income, or another public assistance program under federal or state law.

(i) A seller may not accept or deposit into a trust or escrow account cash, an insurance policy, or any other property as consideration for services or merchandise to be provided in the future except in conjunction with a contract authorized by this chapter."

(Reference is to SB 307 as introduced.)  
and when so amended that said bill do pass.  
Committee Vote: Yeas 10, Nays 0.

BUCK, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Tax & Fiscal Policy, to which was referred Senate Bill 374, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 12, Nays 0.

HERSHMAN, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Commerce & Technology, to which was referred Senate Bill 408, 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 6, delete lines 15 through 32.

Page 7, delete lines 33 through 41.

Page 8, delete lines 33 through 42.

Page 9, delete lines 1 through 19, begin a new paragraph and insert:

"SECTION 9. IC 25-34.1-4-6, AS AMENDED BY P.L.127-2012, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) In the event of the death of an individual managing broker or the termination of a partnership managing broker by the death of a partner, a broker formerly associated with the managing broker may continue to carry out business contracted for before the death or termination of the managing broker, for a maximum period of ninety (90) days after the death or termination. During that period, the broker shall maintain a trust account as provided in section 5 of this chapter. However, until associating with another managing broker, the broker may not undertake any new business.

(b) Upon associating with a new managing broker, the broker may conduct on behalf of the deceased or terminated managing broker only that business which is necessary to complete

obligations assumed while associated with the managing broker. All other acts performed by the broker shall be performed in association with the new managing broker.

(c) Each broker formerly associated with the deceased or terminated managing broker becomes, upon the death or termination of the managing broker, a managing broker **by law** until the broker elects to act as a broker for another managing broker.

(d) This section applies only to matters of licensing and responsibility under this article and does not affect the transfer of the deceased managing broker's property interests as provided by IC 29 and other laws of succession."

Page 10, line 31, delete "2015]" and insert "2014 (RETROACTIVE)]".

Page 10, line 34, after "year" insert "**renewal**".

Page 11, line 21, after "year" insert "**renewal**".

Page 11, line 22, after "education" insert "**each year**".

Renumber all SECTIONS consecutively.

(Reference is to SB 408 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 9, Nays 0.

BUCK, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Veterans Affairs & The Military, to which was referred Senate Bill 424, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 7, Nays 0.

CRIDER, Chair

Report adopted.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Senate Concurrent Resolution 6 and the same is herewith returned to the Senate.

M. CAROLINE SPOTTS  
Principal Clerk of the House

SENATE BILLS ON SECOND READING

Senate Bill 8

Senator Steele called up Senate Bill 8 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 10

Senator Steele called up Senate Bill 10 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.



**Senate Bill 16**

Senator Randolph called up Senate Bill 16 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

**Senate Bill 37**

Senator Bray called up Senate Bill 37 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

**Senate Bill 59**

Senator Pete Miller called up Senate Bill 59 for second reading. The bill was read a second time by title.

SENATE MOTION  
(Amendment 59-1)

Madam President: I move that Senate Bill 59 be amended to read as follows:

Page 1, delete line 16.  
Delete pages 2 through 9.  
Renumber all SECTIONS consecutively.  
(Reference is to SB 59 as printed January 13, 2015.)

PETE MILLER

Motion prevailed. The bill was ordered engrossed.

**Senate Bill 62**

Senator Kruse called up Senate Bill 62 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

**Senate Bill 100**

Senator Buck called up Senate Bill 100 for second reading. The bill was read a second time by title.

SENATE MOTION  
(Amendment 100-1)

Madam President: I move that Senate Bill 100 be amended to read as follows:

Page 1, line 8, delete "U.S.C" and insert "U.S.C."  
Page 1, line 14, delete "U.S.C" and insert "U.S.C."  
Page 3, line 3, after "under" insert "IC".  
Page 3, line 18, after "in" insert "a".  
(Reference is to SB 100 as printed January 14, 2015.)

BUCK

Motion prevailed. The bill was ordered engrossed.

**Senate Bill 143**

Senator Tomes called up Senate Bill 143 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

**Senate Bill 168**

Senator Patricia Miller called up Senate Bill 168 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

**Senate Bill 171**

Senator Bray called up Senate Bill 171 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

**Senate Bill 173**

Senator M. Young called up Senate Bill 173 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

**Senate Bill 174**

Senator M. Young called up Senate Bill 174 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

**Senate Bill 193**

Senator Arnold called up Senate Bill 193 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

**Senate Bill 197**

Senator Yoder called up Senate Bill 197 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

**Senate Bill 199**

Senator Bray called up Senate Bill 199 for second reading. The bill was read a second time by title.

SENATE MOTION  
(Amendment 199-1)

Madam President: I move that Senate Bill 199 be amended to read as follows:

Page 37, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 45. IC 25-23.6-8-13, AS AMENDED BY P.L.134-2008, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) An individual who applies for a marriage and family therapist **associate** license under section **1.5** of this chapter may be exempted by the board from the examination requirement under this chapter if the individual:

- (1) complies with subsection (b); and
- (2) is licensed or certified to practice as a marriage and family therapist in another state or has engaged in the practice of marriage and family therapy for at least three
- (3) of the previous five (5) years.

(b) An individual may be exempted under subsection (a) if the individual:

- (1) has passed a licensing examination substantially equivalent to the licensing examination required under this article;
- (2) has passed an examination pertaining to the marriage and family therapy laws and rules of this state; and
- (3) has not committed any act or is not under investigation for any act that constitutes a violation of this article; and is otherwise qualified under section 1.5 of this chapter and pays an additional fee."

Renumber all SECTIONS consecutively.

(Reference is to SB 199 as printed January 14, 2015.)

BRAY

Motion prevailed. The bill was ordered engrossed.

**Senate Bill 207**

Senator Patricia Miller called up Senate Bill 207 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

**Senate Bill 217**

Senator Boots called up Senate Bill 217 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

**Senate Bill 265**

Senator Kruse called up Senate Bill 265 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

**Senate Bill 311**

Senator Charbonneau called up Senate Bill 311 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

**Senate Bill 352**

Senator Steele called up Senate Bill 352 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

SENATE MOTION

Madam President: I move that Senator Mishler be added as second author, Senator Head be added as third author, and Senator Randolph be added as coauthor of Senate Bill 10.

STEELE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Randolph be added as coauthor of Senate Bill 352.

STEELE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Houchin be added as coauthor of Senate Bill 286.

TOMES

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Tomes be added as third author of Senate Bill 233.

SMITH

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Grooms and Rogers be added as coauthors of Senate Bill 169.

HOUCHIN

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Houchin be added as second author of Senate Bill 408.

MERRITT

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Merritt be added as second author of Senate Bill 396.

HOUCHIN

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Merritt be added as second author of Senate Bill 541.

HOUCHIN

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senator Glick be added as second author and Senators Merritt, Tomes, Delph, and Houchin be added as coauthors of Senate Bill 307.

BRAY

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senator Long be removed as first author and Senator Kruse be substituted therefor of Senate Bill 101.

LONG

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senator Breaux be added as coauthor of Senate Bill 504.

GROOMS

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senator Becker be added as second author of Senate Bill 143.

TOMES

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senator Steele be added as coauthor of Senate Bill 422.

GROOMS

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senator Steele be added as second author of Senate Bill 259.

GROOMS

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senator Steele be added as second author of Senate Bill 356.

GROOMS

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senators Stoops, Steele, Alting, Kruse, Randolph, and Rogers be added as coauthors of

Senate Bill 286.

Motion prevailed.

TOMES

## SENATE MOTION

Madam President: I move that Senator Alting be added as second author and Senator Messmer be added as third author of Senate Bill 113.

BOOTS

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senator Yoder be added as second author and Senator Broden be added as coauthor of Senate Bill 31.

ZAKAS

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senator Broden be added as second author of Senate Bill 216.

ZAKAS

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senator Brown be added as second author of Senate Bill 334.

HOLDMAN

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senator Pete Miller be added as second author of Senate Bill 446.

HOLDMAN

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senator Steele be added as third author of Senate Bill 375.

HOUCHIN

Motion prevailed.

## SENATE MOTION

Madam President: I move that Senator Taylor be added as

coauthor of Senate Bill 173.

M. YOUNG

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Rogers and Mrvan be added as coauthors of Senate Bill 27.

KRUSE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Broden be added as coauthor of Senate Bill 531.

HEAD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Kruse be added as coauthor of Senate Bill 169.

HOUCHIN

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Eckerty be added as coauthor of Senate Bill 100.

BUCK

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Lanane be added as second author of Senate Bill 267.

KRUSE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Waltz be added as second author, Senator Patricia Miller be added as third author, and Senator Schneider be added as coauthor of Senate Bill 559.

M. YOUNG

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Randolph be added as coauthor of Senate Bill 100.

BUCK

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Schneider be added as second author of Senate Bill 21.

RANDOLPH

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Mrvan be added as coauthor of Senate Bill 286.

TOMES

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Randolph be added as coauthor of Senate Bill 311.

CHARBONNEAU

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Randolph be added as coauthor of Senate Bill 143.

TOMES

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Randolph be added as coauthor of Senate Bill 307.

BRAY

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Randolph be added as coauthor of Senate Bill 199.

BRAY

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Randolph be added as coauthor of Senate Bill 171.

BRAY

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Yoder be added as

second author of Senate Bill 62.

KRUSE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Steele be added as coauthor of Senate Bill 212.

PATRICIA MILLER

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Steele be added as third author of Senate Bill 94.

CRIDER

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator A. Banks be added as third author and Senator Kruse added as coauthor of Senate Bill 334.

HOLDMAN

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Boots be added as second author of Senate Bill 265.

KRUSE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Glick be added as coauthor of Senate Bill 298.

A. BANKS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Broden be added as coauthor of Senate Bill 118.

KRUSE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Broden be added as coauthor of Senate Bill 116.

KRUSE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Ford and Yoder be added as coauthors of Senate Bill 309.

CRIDER

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Brown be added as second author of Senate Bill 390.

NIEMEYER

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Patricia Miller and M. Young be added as coauthors of Senate Bill 94.

CRIDER

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Bray be added as second author of Senate Bill 365.

WALTZ

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Crider be added as second author, Senator M. Young be added as third author, and Senators Schneider and Waltz be added as coauthors of Senate Bill 164.

PATRICIA MILLER

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Patricia Miller be added as second author of Senate Bill 66.

CHARBONNEAU

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator M. Young be added as second author, Senator Arnold be added as third author, and Senator Tallian be added as coauthor of Senate Bill 212.

PATRICIA MILLER

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Hershman be added as second author and Senator Arnold be added as coauthor of Senate Bill 347.

YODER

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Yoder be added as coauthor of Senate Bill 424.

BECKER

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Steele be added as second author of Senate Bill 174.

M. YOUNG

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Randolph be added as coauthor of Senate Bill 217.

BOOTS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Randolph be added as coauthor of Senate Bill 408.

MERRITT

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Kruse be added as third author of Senate Bill 259.

GROOMS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Broden be added as coauthor of Senate Bill 10.

STEELE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Broden be added as coauthor of Senate Bill 374.

HEAD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Randolph be added as coauthor of Senate Bill 59.

PETE MILLER

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Rogers be added as coauthor of Senate Bill 267.

KRUSE

Motion prevailed.

SENATE MOTION

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

ARNOLD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Steele be added as second author of Senate Bill 192.

ARNOLD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Randolph be added as coauthor of Senate Bill 197.

YODER

Motion prevailed.

SENATE MOTION

Madam President: I move we adjourn until 1:30 p.m., Thursday, January 22, 2015.

HERSHMAN

Motion prevailed.

The Senate adjourned at 2:10 p.m.

JENNIFER L. MERTZ  
Secretary of the Senate

SUE ELLSPERMANN  
President of the Senate