Journal of the House

State of Indiana

111th General Assembly *Second Regular Session*

Ninth Meeting Day **Thursday Afternoon** **January 13, 2000**

The House convened at 1:00 p.m. with the Speaker in the Chair.

The invocation was offered by Reverend Roy Zerbe, St. Peter Lutheran Church, Portage, the guest of Representative Duane Cheney.

The Pledge of Allegiance to the Flag was led by Representative Cheney.

The Speaker ordered the roll of the House to be called:

T. Adams
Alderman
Atterholt
Avery
Ayres
Bailey
Bardon
Bauer
Becker
Behning
Bischoff
Bodiker
Bosma
Bottorff
C. Brown
T. Brown
Buck
Budak
Buell
Burton
Cheney
Cherry
Cochran
Cook
Crawford
Crooks
Crosby
Day
Denbo
Dickinson
Dillon
Dobis
Dumezich •
Duncan
Dvorak
Espich
Foley
Frenz
Friend
Frizzell
Fry
GiaQuinta
Goeglein
Grubb
Harris
Hasler
Herrell
Hoffman
Kersey
Klinker
Kromkowski
Kruse
Kruzan
Kuzman
Lawson
Leuck
Liggett
Linder
J. Lutz
Lytle
Mahern
Mangus
Mannweiler
McClain
Mellinger
Mock
Moses
Munson
Murphy
Oxley
Pelath
Pond
Porter
Richardson
Ripley
Robertson
Ruppel
Saunders
Scholer
M. Smith
V. Smith
Steele
Stevenson
Stilwell •
Sturtz
Summers
Thompson •
Tincher
Torr
Turner
Ulmer
Villalpando
Weinzapfel
Welch
Whetstone
Wolkins
D. Young
M. Young
Yount
Mr. Speaker

Roll Call 19: 97 present; 3 excused. The Speaker announced a quorum in attendance. [*NOTE*: • *indicates those who were excused*.]

HOUSE MOTION

Mr. Speaker: I move that we dispense with the reading of the Journal.

DICKINSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Tuesday, January 18, 2000, at 1:00 p.m.

VILLALPANDO

Motion prevailed.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the following motion has been adopted:

"I move that Senators Zakas, Clark, Alexa, and Simpson be appointed as a committee of four members of the Senate to wait upon the Chief Justice and to escort him to the House Chambers to deliver his message.

CAROLYN J. TINKLE
Secretary of the Senate

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1018, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between lines 8 and 9, begin a new paragraph and insert:

"**Sec. 2. As used in this chapter, "case" refers to a decision of the association:**

(1) that concerns the application or interpretation of a rule of the association to an individual student; and

(2) with which the student's parent disagrees.

Sec. 3. As used in this chapter, "panel" refers to the case review panel established under section 8 of this chapter.

Sec. 4. As used in this chapter, "parent" has the meaning set forth in IC 20-10.1-1-9.

Sec. 5. As used in this chapter, "state superintendent" refers to the state superintendent of public instruction.".

Page 1, line 9, delete "2" and insert "**6**".

Page 1, line 13, delete "3" and insert "**7**".

Page 1, line 13, delete "organization" and insert "**association**".

Page 1, line 14, delete "organization" and insert "**association**".

Page 2, delete lines 8 through 14, begin a new paragraph and insert:

"**Sec. 8. (a) The association must establish a case review panel that meets the following requirements:**

(1) The panel has nine (9) members.

(2) The state superintendent or the state superintendent's designee is a member of the panel and is the chairperson of the panel.

(3) The state superintendent shall appoint as members of the panel persons having the following qualifications:

(A) Four (4) parents of a high school student.

(B) Two (2) high school principals.

(C) Two (2) high school athletic directors.

(4) A member of the panel serves for a four (4) year term, subject to following:

(A) An appointee who ceases to meet the member's qualification under subdivision (3) ceases to be a member of the panel.

(B) The state superintendent shall appoint fifty percent (50%) of the initial appointees under in each clause in subdivision (3) for terms of two (2) years, so that terms of the panel are staggered.

(5) The panel must meet monthly, unless there are no cases before the panel. The panel may meet more frequently at the call of the chairperson. However, the chairperson must call a meeting within five (5) business days after the panel receives a case in which time is a factor in relation to the scheduling of an athletic competition.

(6) A quorum of the panel is five (5) members. The affirmative vote of five (5) members of the panel is required for the panel to take action.

(b) A student's parent who disagrees with a decision of the association concerning the application or interpretation of a rule of the association to the student shall have the right to refer the case to the panel.

(c) Upon receipt of a case, the panel must do the following:

(1) Collect testimony and information on the case, including testimony and information from both the association and the parent.

(2) Place the case on the panel's agenda and consider the case at a meeting of the panel.

(3) Make one (1) of the following decisions:

(A) Uphold the association's decision on the case.

(B) Modify the association's decision on the case.

(C) Nullify the association's decision on the case.

(d) The association must implement the decision of the panel on each case. However, a decision of the panel:

(1) applies only to the case before the panel ; and

(2) does not affect any rule of the association or decision under any rule concerning any student other than the student whose parent referred the case to the panel.

(e) The association shall pay all costs attributable to the operation of the panel, including travel and per diem for panel members.".

(Reference is to HB 1018 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 5.

PORTER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1025, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 9, nays 0.

VILLALPANDO, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1043, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line16, reset in roman "first four (4) of the".

Page 2, line 16, reset in roman"five (5)".

Page 2, line 16, delete "four (4)".

(Reference is to HB 1043 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 6.

LIGGETT, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1049, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 16, strike "ten (10)" and insert "**thirty (30)**".

(Reference is to HB 1049 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

VILLALPANDO, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1050, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 3, after "agency." insert "**If the treatment or travel to or from the place of treatment causes a loss of working time to the employee, the employer shall reimburse the employee for the loss of wages using the basis of the employee's average daily wage.**".

Page 8, line 42, before "An" insert "**If a determination of liability is not made within thirty (30) days and the employer is subsequently determined to be liable to pay compensation, the first installment of compensation must include the accrued weekly compensation and interest at the legal rate of interest specified in IC 24-4.6-1-101 computed from the date fourteen (14) days after the disability begins.**".

Page 29, delete lines 16 through 42.

Page 34, line 36, before "An" insert "**If a determination of liability is not made within thirty (30) days and the employer is subsequently determined to be liable to pay compensation, the first installment of compensation must include the accrued weekly compensation and interest at the legal rate of interest specified in IC 24-4.6-1-101 computed from the date fourteen (14) days after the disability begins.**".

Page 51, line 18, after "employees." insert "**If the treatment or travel to or from the place of treatment causes a loss of working time to the employee, the employer shall reimburse the employee for the loss of wages using the basis of the employee's average daily wage.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1050 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 5.

LIGGETT, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred House Bill 1063, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 27, after "high;" insert "**and**".

Page 3, line 28, delete "includes at least one (1) strand of wire; and".

Page 3, line 29, delete "(C)".

Page 3, run in lines 28 through 29.

Page 4, line 9, after "." insert "**However, a licensee shall affix a tag that identifies the licensee's hunting preserve to the body of each captive reared white-tailed deer that is released on the licensee's hunting preserve.**".

(Reference is to HB 1063 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 2.

LYTLE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1068, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 20, after "section." insert "**The number of freeholders who signed a petition shall be certified by the county auditor of the county that is the subject of the petition.**".

Page 3, line 22, after "primary county" insert "**.**".

Page 3, delete line 23.

(Reference is to HB 1068 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

STEVENSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred House Bill 1075, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 15, delete "dBA" and insert "**decibels**".

(Reference is to HB 1075 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 3.

LYTLE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred House Bill 1076, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 14, nays 0.

LYTLE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1145, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 22-4-19-6, AS AMENDED BY P.L.235-1999, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. (a) Each employing unit shall keep true and accurate records containing information the department considers necessary. These records are:

(1) open to inspection; and

(2) subject to being copied;

by an authorized representative of the department at any reasonable time and as often as may be necessary. The commissioner, the review board, or an administrative law judge may require from any employing unit any verified or unverified report, with respect to persons employed by it, which is considered necessary for the effective administration of this article.

(b) Except as provided in subsection (d), information obtained or obtained from any person in the administration of this article and the records of the department relating to the unemployment tax or the payment of benefits is confidential and may not be published or be open to public inspection in any manner revealing the individual's or the employing unit's identity, except:

(1) in obedience to an order of a court;

(2) when authorized by the individual and the employing unit; or

(3) as provided in this section.

(c) A claimant at a hearing before an administrative law judge or the review board shall be supplied with information from the records referred to in this section to the extent necessary for the proper presentation of the subject matter of the appearance. The commissioner may make the information necessary for a proper presentation of a subject matter before an administrative law judge or the review board available to an agency of the United States or an Indiana state agency.

(d) The commissioner may release the following information:

(1) Summary statistical data may be released to the public.

(2) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the department of commerce only for the following purposes:

(A) The purpose of conducting a survey.

(B) The purpose of aiding the officers or employees of the department of commerce in providing economic development assistance through program development, research, or other methods.

(C) Other purposes consistent with the goals of the department of commerce and not inconsistent with those of the department.

(3) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the budget agency only for aiding the employees of the budget agency in forecasting tax revenues.

(4) Information obtained from any person in the administration of this article and the records of the department relating to the unemployment tax or the payment of benefits for use by the following governmental entities:

(A) department of state revenue; or

(B) state or local law enforcement agencies;

only if there is an agreement that the information will be kept confidential and used for legitimate governmental purposes.

(e) The commissioner may make information available under subsection (d)(1), (d)(2), or (d)(3) only:

(1) if:

(A) data provided in summary form cannot be used to identify information relating to a specific employer or specific employee; or

(B) there is an agreement that the employer specific information released to the department of commerce or budget agency will be treated as confidential and will be released only in summary form that cannot be used to identify information relating to a specific employer or a specific employee; and

(2) after the cost of making the information available to the person requesting the information is paid under IC 5-14-3.

(f) An employee:

(1) of the department who recklessly violates subsection (a), (c), (d), or (e); or

(2) of any governmental entity listed in subsection (d)(4) of this chapter who recklessly violates subsection (d)(4) of this chapter;

commits a Class B misdemeanor.

(g) An employee of the department of commerce or the budget agency who violates subsection (d) or (e) commits a Class B misdemeanor.".

Page 3, after line 8, begin a new paragraph and insert:

"SECTION 5. IC 22-4-32-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 20. The contributions, penalties, and interest due from any employer under the provisions of this article from the time they shall be due shall be a personal liability of the:

(1) employer; **and**

(2) directors and officers of an employer;

to and for the benefit of the fund and the employment and training services administration fund.

SECTION 6. IC 22-4-32-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 23. (a) As used in this section:

(1) "Dissolution" refers to dissolution of a corporation under IC 23-1-45 through IC 23-1-48.

(2) "Liquidation" means the operation or act of winding up a corporation's affairs, when normal business activities have ceased, by settling its debts and realizing upon and distributing its assets.

(3) "Withdrawal" refers to the withdrawal of a foreign corporation from Indiana under IC 23-1-50.

(b) The officers and directors of a corporation effecting dissolution, liquidation, or withdrawal shall do the following:

(1) File all necessary documents with the department in a timely manner as required by this article.

(2) Make all payments of contributions to the department in a timely manner as required by this article.

(3) File with the department a form of notification within thirty (30) days of the adoption of a resolution or plan. The form of notification shall be prescribed by the department and may require information concerning:

(A) the corporation's assets;

(B) the corporation's liabilities;

(C) details of the plan or resolution;

(D) the names and addresses of corporate officers, directors, and shareholders;

(E) a copy of the minutes of the shareholders' meeting at which the plan or resolution was formally adopted; and

(F) such other information as the board may require.

The commissioner may accept, in lieu of the department's form of notification, a copy of Form 966 that the corporation filed with the Internal Revenue Service.

(c) **Notwithstanding IC 23-1-35-1(e),** unless a clearance is issued under subsection ~~(g) for a period of one (1) year following the filing of the form of notification with the department,~~ **(e),** the corporate officers and directors remain personally liable ~~subject to IC 23-1-35-1(e), for any acts or omissions that result in the distribution of corporate assets in violation of the interests of the state. An officer or director held liable for an unlawful distribution under this subsection is entitled to contribution:~~

~~(1) from every other director who voted for or assented to the distribution, subject to IC 23-1-35-1(e); and~~

~~(2) from each shareholder for the amount the shareholder accepted.~~

~~(d) The corporation's officers' and directors' personal liability includes~~ **for** all contributions, penalties, interest, and fees associated with the collection of the liability due the department. In addition to the penalties provided elsewhere in this article, a penalty of up to thirty percent (30%) of the unpaid contributions may be imposed on the corporate officers and directors for failure to take reasonable steps to set aside corporate assets to meet the liability due the department.

~~(e) If the department fails to begin a collection action against a corporate officer or director within one (1) year after the filing of a completed form of notification with the department, the personal liability of the corporate officer or director expires. The filing of a substantially blank form of notification or a form containing misrepresentation of material facts does not constitute filing a form of notification for the purpose of determining the period of personal liability of the officers and directors of the corporation.~~

~~(f)~~ **(d)** In addition to the remedies contained in this section, the department is entitled to pursue corporate assets that have been distributed to shareholders in violation of the interests of the state. The election to pursue one (1) remedy does not foreclose the state's option to pursue other legal remedies.

~~(g)~~ **(e)** The department may issue a clearance to a corporation effecting dissolution, liquidation, or withdrawal if:

(1) the officers and directors of the corporation have met the requirements of subsection (b); and

(2) request for the clearance is made in writing by the officers and directors of the corporation within thirty (30) days after the filing of the form of notification with the department.

~~(h)~~ **(f)** The issuance of a clearance by the department under subsection ~~(g)~~ **(e)** releases the officers and directors from personal liability under this section.

SECTION 7. IC 23-1-46-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) A corporation administratively dissolved under section 2 of this chapter may apply to the secretary of state for reinstatement. The application must:

(1) recite the name of the corporation and the effective date of its administrative dissolution;

(2) state that the ground or grounds for dissolution either did not exist or have been eliminated;

(3) state that the corporation's name satisfies the requirements of IC 23-1-23-1; ~~and~~

(4) contain a certificate from the department of state revenue reciting that all taxes owed by the corporation have been paid; **and**

(5) contain a certificate from the department of workforce development stating that all employer contributions owed by the corporation under IC 22-4-10 have been paid.

(b) If the secretary of state determines that the application contains the information required by subsection (a) and that the information is correct, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites the determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation under IC 23-1-24-4.

(c) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the corporation resumes carrying on its business as if the administrative dissolution had never occurred.

SECTION 8. IC 25-1-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) The bureau and the boards may allow the department of state revenue **and the department of workforce development** access to the name of each person who:

(1) is licensed under this chapter; or

(2) has applied for a license under this chapter.

(b) If the department of state revenue notifies the bureau that a person is on the most recent tax warrant list, the bureau may not issue or renew the person's license until:

(1) the person provides to the bureau a statement from the department of state revenue that the person's delinquent tax liability has been satisfied; or

(2) the bureau receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

(c) If the department of workforce development notifies the bureau that a person has unpaid contribution liability, the bureau may not issue or renew the person's license until the person provides to the bureau a statement from the department of workforce development that the person's delinquent contribution liability has been satisfied.

SECTION 9. IC 25-1-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) The bureau and the boards may allow the department of state revenue **and the department of workforce development** access to the name of each person who:

(1) is licensed under this chapter; or

(2) has applied for a license under this chapter.

(b) If the department of state revenue notifies the bureau that a person is on the most recent tax warrant list, the bureau may not issue or renew the person's license until:

(1) the person provides to the bureau a statement from the department of revenue that the person's delinquent tax liability has been satisfied; or

(2) the bureau receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

(c) If the department of workforce development notifies the bureau that a person has unpaid contribution liability, the bureau may not issue or renew the person's license until the person provides to the bureau a statement from the department of workforce development that the person's delinquent contribution liability has been satisfied.".

Renumber all SECTIONS consecutively.
(Reference is to HB 1145 as introduced.)
and when so amended that said bill do pass.
Committee Vote: yeas 9, nays 0.

LIGGETT, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1216, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.
Committee Vote: yeas 10, nays 0.

STEVENSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1222, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:
Replace the effective dates in SECTIONS 1 through 3 with "[EFFECTIVE JANUARY 1, 2001]".
Page 3, line 38, after "than" insert "**a limited insurance representative's license or**".
Page 3, line 40, delete "An" and insert "**A limited insurance representative's license and an**".
Page 3, line 40, delete "continues" and insert "**continue**".
Page 5, line 20, delete "forty-eight (48)" and insert "**forty (40)**".
Page 5, line 40, delete "forty-eight (48)" and insert "**forty (40)**".
Page 6, delete lines 36 through 42, begin a new paragraph and insert:
"SECTION 4. [EFFECTIVE JANUARY 1, 2001] **(a) IC 27-1-15.5-3, IC 27-1-15.5-7.1, and IC 27-1-15.5-7.7, all as amended by this act, apply to a license that is renewed or issued after December 31, 2000.**
(b) An individual or entity who:
(1) is licensed under IC 27-1-15.5; and
(2) voluntarily surrenders the license before July 1, 2002;
may not renew the license or obtain a new license before the expiration date of the license that the individual or entity surrendered.
(c) Until the commissioner adopts rules to establish a license renewal fee under IC 27-1-15.5-7.7, as amended by this act, the license renewal fee for a license renewed or issued after December 31, 2000, is two (2) times the fee that was charged for the license on December 31, 2000, if the license renewal period for the license was two (2) years.
(d) This SECTION expires December 31, 2003.".
Delete page 7.
(Reference is to HB 1222 as introduced.)
and when so amended that said bill do pass.
Committee Vote: yeas 13, nays 0.

FRY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1259, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.
Committee Vote: yeas 11, nays 0.

STEVENSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1301, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.
Committee Vote: yeas 8, nays 2.

LIGGETT, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1322, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.
Committee Vote: yeas 7, nays 2.

LIGGETT, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1370, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.
Committee Vote: yeas 8, nays 2.

LIGGETT, Chair

Report adopted.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 1:20 p.m. with the Speaker in the Chair.

The Speaker introduced the honored guests as follows: Governor Frank O'Bannon; Lieutenant Governor Joseph Kernan; Senator Robert D. Garton, President Pro Tempore of the Senate; Amy MacDonell, wife of Chief Justice Shepard; Judy O'Bannon, wife of Governor O'Bannon; Jan Dickson, wife of Justice Brent Dickson; Cheryl Sullivan, wife of Justice Frank Sullivan; Tim Berry, Treasurer of State; Sue Anne Gilroy, Secretary of State; Connie Nass, Auditor of State; Brian Bishop, Clerk of the Supreme and Appellate Courts, Russell G. Lloyd, Jr., mayor of Evansville (hometown of Chief Justice Shepard); Representative Paul Mannweiler, Minority Leader of the House; Senator Richard D. Young, Jr., Minority Leader of the Senate; former Chief Justice Richard Givan; former Justice Myra Selby; and former Justice Paul Jasper.

The Speaker yielded the gavel to Lieutenant Governor Joseph Kernan, President of the Senate, who called the joint session to order and presented the Chief Justice as follows:

"Ladies and gentlemen of the House and Senate, in accordance with Section 3 of Article 7 of the Constitution of the State of Indiana, this joint session of the House and Senate is now convened for the purpose of hearing a message from the Chief Justice of the Supreme Court of the State of Indiana.

It is my privilege to present to you the distinguished Chief Justice of the Supreme Court, the Honorable Randall T. Shepard."

Chief Justice Shepard was escorted to the rostrum by Senators Zakas, Clark, Alexa, and Simpson and Representatives Dvorak, Villalpando, Linder, and Ulmer.

"What Has Indiana Done About This?"

Governor O'Bannon and Members of the General Assembly:

In two vastly different settings last month, people reminded me of a statement I made on the day I was sworn in as Chief Justice: "I want us to be a court so well regarded that judges in other states,

when considering the toughest legal issues of our time, will be led to turn to each other and ask, 'I wonder what Indiana has done about this?'"

It is the sort of heady statement one makes when taking office, a reminder of the lofty objectives that come with such a day. Having it quoted back to me twice just in December, though, prompted me to think about the big objectives of the Indiana judiciary and about whether we are doing anything that is truly special or inventive. I think there are five major stories to tell about today's Indiana courts, and I come today to report to you about each of them.

I. A Lot of People Need Legal Help and Cannot Afford It

Struggle against it as we might, government and law continue to play a substantial role in daily life. People all too often find themselves in need of a lawyer, and the poorest of our citizens cannot afford to pay what the economics of modern lawyering requires. Indiana is making major strides in helping such people obtain legal assistance.

In the field of criminal law, our state has a long and interesting history of pursuing two seemingly paradoxical objectives. On the one hand, we are a state that takes a no-nonsense approach to crime — more police, more prosecutors, higher sentences, more prisons. A national commentator once said that if you committed a crime in Indiana the best thing to do was to drag the body across the state line.

At the same time, we are a state that has for 150 years stood strong for the proposition that if you are charged with a crime you should not have to fend for yourself just because you are poor. Indiana's most recent innovation is the Indiana Public Defender Commission. Created by the legislature in l993, it is drawing national attention. This commission has developed standards for effective representation of the poor and invited counties to upgrade their public defender programs in return for a partial reimbursement in state funds. In l999 alone, the counties participating in this network grew from 13 to 36, and these 36 account for 48% of the criminal cases statewide. When the American Bar Association recently urged that all states adopt minimum standards for indigent defense, its House of Delegates held up Indiana as a model for others to follow.

Of course, most people with legal problems are law-abiding folks entangled in divorces, or employment problems, or housing disputes. Historically, people in those situations received help from the federally-financed Legal Services offices, but since Congress sharply curtailed their funds in 1995, Indiana has been looking for a way to provide more legal assistance to people with these kinds of problems. On this front, 1999 was a big year.

Within the last 90 days, thousands of Indiana lawyers have transferred the small amounts they hold in trust out of traditional zero-interest accounts and placed them instead in accounts that are now earning interest for legal services to the poor. This energetic beginning is the product of a partnership between the Supreme Court and the Indiana Bar Foundation.

That accomplishment is good news, but most states did it long ago. Indiana's unique decision has been to use the proceeds to recruit and organize lawyers who are willing to donate time assisting low-income people. During 1999, the Supreme Court named fourteen local judges to convene meetings in every corner of the state to discuss how bar associations, legal services offices, law schools and the courts could best recruit volunteers, train them, and match them up with people in need. A number of counties already have such programs, and the best of these manage to attract more than half of all lawyers in town. If we can duplicate this statewide, it will mean an army of some 6000 or 7000 lawyer volunteers. It will be an army organized, trained, and supported with funds generated by interest on trust accounts that would have gone uncollected. That's like finding money on the sidewalk and putting it in the Salvation Army kettle. There is every reason to predict success, thanks to the leadership of Judge Mark Bailey of the Court of Appeals and David Remondini, Counsel to the Chief Justice.

No one in America has tried this. We think it will produce tens of thousands of hours of attorney time, helping low-income people and advertising Indiana as a great place to live where decent people help each other out.

II. The Courts Need to Support Strong Families

It's a happy fact that the statistics about marriage and children and divorce are improving, but our state still has 40,000 divorces a year and thousands of children born out of wedlock. Dealing with parents and children who face these problems is a central mission of the judiciary. Let me mention some important projects that should make Indiana a leader in this field.

The Supreme Court and the Domestic Relations Committee of the Judicial Conference have launched a project to devise statewide guidelines for child visitation. It's a possibility many legislators have asked about. How this might work on a statewide basis is an intriguing question, but what is really interesting is that our committee has posed a more fundamental question about the nature and purpose of visitation.

Most child visitation orders issued by courts have all the charm and humanity of a railroad schedule: Tuesdays from 7 to 9, every other weekend from 5 p.m. Friday to 5 p.m. Sunday, alternating birthdays and Christmases from 6 to 9. These schedules have one thing in common — they organize visitation from the point of view of adults.

Our committee, chaired by Judge Dan Donahue of Clarksville, has decided to examine how visitation works best from the child's point of view, an idea advanced by people working on family issues in Lake County. They have given a name to this: child-centered visitation. To be sure, part of visitation is the joy of parenting, but the most important objective is rearing good children through the effort of both parents. We know of no other state court system that has decided to look at the issue in quite this way.

On a related front, we have set in motion a comprehensive re-examination of protective orders, an important aspect of combating domestic violence. Just a few years ago we abolished the old practice of mutual restraining orders, which were routinely issued even when there was no reason to believe that both spouses needed restraint. This new initiative, led by Blackford County Court Judge John Forcum, will examine the effectiveness of protective orders: how to identify the genuine domestic violence situation from the host of other disputes, how law enforcement officers can determine whether a given order is genuine or whether it is still in force, how such orders can be made effective from one county to the next, or for that matter from one state to the next.

The protective order is a leading tool in combating domestic violence, but this system has many flaws. We have charged a committee of judges who work in this field to examine how we can do it better.

The larger issue is how we organize the court system to work better for families. How do we reduce repeat court appearances and avoid inconsistent judicial results for families and children involved in divorce, delinquency, child in need of services, protective orders, and other family law cases? How do we insure that orders affecting children are based on timely and thorough reports, prepared with consideration to the needs and situation of the whole family? How do we foster use of mediation in family matters?

These objectives lie at the heart of the experiment in family courts the legislature financed last year. A Family Court Task Force, headed by Judge Margaret A. Robb of the Court of Appeals, is about to help us choose three pilot projects from eight counties that submitted innovative applications. Most importantly, Judge Robb's task force has been bold enough to ask just what a "family court" actually is. It is an experiment worth watching.

III. This Needs to be a Judiciary for All the People

Opportunity for minorities and women in the courts is a high

priority for the Indiana judicial system, and it is a field where Indiana is a genuine leader.

We are committed to the election and the appointment of minority and women lawyers to positions of responsibility and power in the system. The number of women serving as judges has grown so large that even regular observers cannot easily keep track of how many there are, and the number is growing almost monthly. There are now scores of women serving as judges and magistrates (mostly as judges), two of the three officers of the Indiana Judges Association are women along with a third of the board members, and five women judges chair committees of the Judicial Conference of Indiana. The Supreme Court's Continuing Legal Education Commission is chaired by a woman, and the Disciplinary Commission is chaired by a woman, and the Board of Law Examiners is chaired by a woman.

There are more black judges than ever before, with eighteen minority judges and magistrates (mostly judges). Two of these judges chair committees of the Judicial Conference, joining the four African-Americans who serve as officers of Supreme Court Commissions.

There has been dramatic progress in the courts of Lake County. You may recall that during my address in l989, I said "we need a black trial judge in Lake County." It was simply intolerable that the largest minority group was not represented on the bench in the state's second largest county. Turning that situation around has been a long struggle, which is why I am especially happy to tell you that today, with the last appointment made by Governor O'Bannon, the bench in Lake County approximates the demographics of that county's population and far exceeds the percentage of minority lawyers.

Of course, we need more minority lawyers, and our state has become known for the Indiana Conference for Legal Education Opportunity, CLEO. This year, there are CLEO students in all three classes of Indiana's law schools, and the first CLEO student has already graduated. Two of these students are about to become law clerks in the state's highest court. This commitment by Indiana has attracted notice all around the country, including Georgia, where the first Georgia CLEO program began just last summer, in open emulation of the Indiana ideal. In fact, just yesterday a judge from New York City called my office and asked us to send him everything we have on the ICLEO Program. Rest assured, we are going to send him a briefcase full of information, happy to export a good Hoosier-bred idea.

IV. The Court System Has to Remake Itself

The court structure in our state is largely the product of a hundred years of ad hoc decisions. When it comes to making the most out of time and taxpayer money, this system leaves a lot to be desired, but we are doing our best to make it work effectively. Let me list, in just two sentences each, some of things we have done in the last year.

—We have asked judges, county by county, and by groups of counties, to examine disparities in workload and prepare plans to even out the disparities. These plans will be implemented this year so that citizens who find themselves in an overcrowded court have a better chance of getting their cases heard earlier rather than later.

—The Citizens Commission on the Future of Indiana Courts and the Judicial Administration Committee recently completed major studies of how we recruit, treat, and empower juries, recommending substantial reforms. Many of these reforms can be implemented by court rule, and others we will ask you to consider in the next General Assembly.

—With the help of some of our state's most able lawyers, the Supreme Court has issued a sweeping revision of the rules for taking appeals, for the first time in thirty years. These will take effect next January so that lawyers, court reporters, and county clerks have time to implement to the changes.

—We broadcast a session of the Supreme Court over the Internet, only the second supreme court in the United States ever to do so. I believe that this can become a remarkable tool for the continuing legal education of lawyers and for elementary, high school and college students.

—We created a task force, chaired by Justice Frank Sullivan, to implement a comprehensive technology strategy so that the scores of local court information systems can be connected together. As with reforms to the jury system, we plan to ask next year for your help in making this happen.

V. Indiana Needs to be a Place of Good Thinking

Finally, we aspire as a judiciary to hold our own against the growing weight of our caseload, to concentrate on the plight of individuals and to come to grips with the most difficult legal issues of our time. There were hopeful signs suggesting we already do that. For example, a recent decision authored by Judge Jim Kirsch tackled one of our society's most difficult problems — care for people afflicted with Alzheimer's. His opinion on the relationship between patient and caregiver, and Judge Ezra Friedlander's dissent, so thoughtfully analyzed the problem that The Wall Street Journal reported it on page one. Justice Theodore Boehm's opinion for the Supreme Court about the way insurance companies provide lawyers for people who have been in accidents put Indiana on page one of The National Law Journal. Likewise, other state courts have been citing Indiana in resolving their own cases. Last year, sixty-eight state appellate courts cited and followed decisions of the Indiana Supreme Court and Indiana Court of Appeals as authority for their own decisions.

Struggle as we do with the press of volume, Indiana judges will not lose sight of the need for clear thinking and good writing, so that people in other parts of the nation will be led to ask, "I wonder what Indiana has done about this?"

Conclusion

Why does that matter? Standing alone, the fact that others look to us matters not a whit. It makes a difference only as a sign that we are not simply engaged in running the same old machinery. It is some sign that Indiana judges are contributing towards making our state an even better place to live, and prosper, and raise children, and, yes, making a more just society.

And that ladies and gentlemen, is the state of your judiciary.

The President of the Senate adjourned the joint session.

The House reconvened at 1:50 p.m. with the Speaker in the Chair.

RESOLUTIONS ON FIRST READING

House Resolution 6

Representatives V. Smith, Summers, Porter, Crawford, C. Brown, Dickinson, and Harris introduced House Resolution 6:

A HOUSE RESOLUTION to commemorate the life of Dr. Martin Luther King Jr. and his contributions to our nation.

Whereas, We remember Dr. Martin Luther King Jr., one of our nation's truly great leaders for justice and righteousness, who was born 71 years ago on January 15, 1929;

Whereas, Dr. King had many dreams - of an America where "justice rolls down like water and righteousness like a mighty stream," and America where neighbors look "beyond the external accidents and discern those inner qualities that make all men human and, therefore, brothers," a time when "this nation will rise up and live out the true meanings of its creed, 'we hold these truths to be self evident: that all men are created equal";

Whereas, Dr. King a dream "that one day...the sons of the former slave owners will be able to sit together at the table of brotherhood...that one day even (states) sweltering with the heat of oppression, will be transformed into an oasis of freedom and justice...that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character";

Whereas, The dreams of Dr. King continue to inspire the American people - his people;

Whereas, We must continue to take inspiration from the life of Dr. Martin Luther King Jr., striving with renewed spirits to realize his dreams; and

Whereas, It is fitting and proper that at this time we remember Dr. Martin Luther King Jr. and the cause to which he dedicated his life: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the General Assembly calls upon the people of Indiana, the businessmen and businesswomen, the professionals, the laborers, the men, the women, the children, the black, the white, all Hoosiers, to remember Dr. Martin Luther King Jr., to affirm as our creed the words of the Declaration of Independence, "all men are created equal," and then rise up and live out the true meaning of that creed.

SECTION 2. That on January 17, the day set aside this year to honor Dr. Martin Luther King Jr., and of us pause to remember him and his dream.

The resolution was read a first time and adopted by voice vote.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1015, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 17, delete "Class A" and insert "**Class B**".

(Reference is to HB 1015 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

DVORAK, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1035, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 9, nays 0.

DVORAK, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1143, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 8, line 2, after "shall" delete "," and insert ":

(A)".

Page 8, line 2, after "fraud" delete "," and insert "**in connection with a viaticated policy as provided in clause (B),**".

Page 8, line 5, after "date" delete "," and insert "; **and**

(B) in the event of fraud in connection with a viaticated policy (as defined in IC 27-8-19.8-6), be incontestable after the policy has been in force during the lifetime of the insured for five (5) years after the date of issue, or, at the option of the company after the policy has been in force for five (5) years after the date of issue;".

Page 10, delete lines 34 through 42, begin a new line block indented and insert:

"(2) A provision that the validity of the policy may not be contested ~~except for nonpayment of premiums, after the policy has been in force for two (2) years after its date of issue and that no statement made by a person insured under the policy relating to the person's insurability may be used in contesting the validity of the insurance with respect to which the statement was made, unless:~~ **except as provided in clause (A), (B), (C), or (D):**

(A) ~~the insurance has not been in force for a period of two (2) years or longer during the person's lifetime; or~~ **The validity of a policy may be contested at any time for nonpayment of premiums.**

(B) ~~the statement is contained in a written instrument signed by the insured person.~~ **The validity of a policy may be contested based on a statement made by a person insured under the policy that relates to the person's insurability if:**

(i) the statement is set forth in a written instrument signed by the insured; and

(ii) the policy has not been in force for two (2) years after the date of issue.

(C) The validity of a policy may be contested based on a statement made by a person insured under the policy that relates to the person's insurability if:

(i) the policy has not been in force for at least two (2) years during the person's lifetime; and

(ii) the policy has not been in force for two (2) years after its date of issue.

(D) The validity of a viaticated policy (as defined in IC 27-8-19.8-6) may be contested on the grounds of fraud until the policy has been in force for five (5) years after the date of issue.".

Page 11, delete lines 1 through 2.

(Reference is to HB 1143 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

FRY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1179, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 13, nays 0.

FRY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1189, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 2. IC 22-2-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) Any assignment of the wages of an employee is valid only if all of the following conditions are satisfied:

(1) The assignment is:

(A) in writing;

(B) signed by the employee personally;

(C) by its terms revocable at any time by the employee upon written notice to the employer; and

(D) agreed to in writing by the employer.

(2) An executed copy of the assignment is delivered to the employer within ten (10) days after its execution.

(3) The assignment is made for a purpose described in subsection (b).

(b) A wage assignment under this section may be made for the purpose of paying any of the following:

(1) Premium on a policy of insurance. ~~obtained for the employee by the employer.~~

(2) Pledge or contribution of the employee to a charitable or

nonprofit organization.
(3) Purchase price of bonds or securities, issued or guaranteed by the United States.
(4) Purchase price of shares of stock, or fractional interests therein, of the employing company, or of a company owning the majority of the issued and outstanding stock of the employing company, whether purchased from such company, in the open market or otherwise. However, if such shares are to be purchased on installments pursuant to a written purchase agreement, the employee has the right under the purchase agreement at any time before completing purchase of such shares to cancel said agreement and to have repaid promptly the amount of all installment payments which theretofore have been made.
(5) Dues to become owing by the employee to a labor organization of which the employee is a member.
(6) Purchase price of merchandise sold by the employer to the employee, at the written request of the employee.
(7) Amount of a loan made to the employee by the employer and evidenced by a written instrument executed by the employee.
(8) Contributions, assessments, or dues of the employee to a hospital service or a surgical or medical expense plan or to an employees' association, trust, or plan existing for the purpose of paying pensions or other benefits to said employee or to others designated by the employee.
(9) Payment to any credit union, nonprofit organizations, or associations of employees of such employer organized under any law of this state or of the United States.
(10) Payment to any person or organization regulated under the Uniform Consumer Credit Code (IC 24-4.5) for deposit or credit to the employee's account by electronic transfer or as otherwise designated by the employee.
(11) Premiums on policies of insurance and annuities purchased by the employee on the employee's life.
(12) The purchase price of shares or fractional interest in shares in one (1) or more mutual funds.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1189 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 13, nays 1.

FRY, Chair

Report adopted.

OTHER BUSINESS ON THE SPEAKER'S TABLE

Reassignments

The Speaker announced the following reassignment:

House Bill 1421 from the Committee on Rules and Legislative Procedures to the Committee on Financial Institutions.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives Fry, Summers, Crawford, and C. Brown be added as coauthors of House Bill 1011

PORTER

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Ayres be added as coauthor of House Bill 1015.

COOK

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives T. Adams, Atterholt, Becker, T. Brown, Buell, Dillon, Foley, Fry, Kuzman, Mock, Pond, V. Smith, Steele, Stilwell, and Ulmer be added as coauthors of House Bill 1018

GRUBB

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative M. Smith be added as coauthor of House Bill 1065.

T. BROWN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Linder be added as coauthor of House Bill 1070.

FOLEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Bodiker be added as coauthor of House Bill 1218.

WOLKINS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives T. Adams, Alderman, Bardon, Ripley, and Stevenson be added as coauthors of House Bill 1259

HERRELL

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

HOUSE MOTION

Mr. Speaker: I move that House Rule 106.1 be suspended for the purpose of adding more than three coauthors and that Representatives C. Brown, Budak, Becker, Welch, Frizzell, Scholer, Klinker, Dillon, and Crosby be added as coauthors of House Bill 1263

GOEGLEIN

The motion, having been seconded by a constitutional majority and carried by a two-thirds vote of the members, prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Welch be added as coauthor of House Bill 1330.

KRUZAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Crawford and Espich be added as coauthors of House Bill 1415.

BUELL

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative GiaQuinta the House adjourned at 2:00 p.m., this thirteenth day of January, 2000, until Tuesday, January 18, 2000, at 1:00 p.m.

JOHN R. GREGG
Speaker of the House of Representatives

LEE SMITH
Principal Clerk of the House of Representatives