



Reprinted
March 30, 2005

ENGROSSED

SENATE BILL No. 459

DIGEST OF SB 459 (Updated March 29, 2005 8:59 pm - DI 92)

Citations Affected: IC 6-3; IC 6-3.1; IC 16-41; IC 21-9; noncode.

Synopsis: Health benefit plan credit. Allows an employer with at least one full-time employee to take a tax credit related to making a health benefit plan available to the employer's employees. Provides individuals a deduction from adjusted gross income for certain student loan obligations. Provides an adjusted gross income tax credit to certain physicians who provide primary care to medicaid recipients. Reduces the number of appointed directors of the education savings authority from five to three. Provides that up to \$2,000 in contributions to a family college savings account may be deducted from adjusted gross income. Codifies an expired noncode provision that requires the treasurer of state and the board for depositories to provide clerical support, office space and services, and financial support to the education savings authority. Makes smoking in a public means of mass transportation or near a public mass transportation terminal or waiting area a Class B infraction.

Effective: January 1, 2005 (retroactive); July 1, 2005; January 1, 2006.

Dillon, Simpson, Lanane

(HOUSE SPONSORS — LEONARD, ORENTLICHER, AYRES)

January 18, 2005, read first time and referred to Committee on Tax and Fiscal Policy.
February 24, 2005, reported favorably — Do Pass.
February 28, 2005, read second time, amended, ordered engrossed.
March 1, 2005, engrossed. Read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

March 10, 2005, read first time and referred to Committee on Ways and Means.
March 24, 2005, amended, reported — Do Pass.
March 29, 2005, read second time, amended, ordered engrossed.

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First Regular Session 114th General Assembly (2005)

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 459

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

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

1 SECTION 1. IC 6-3-2-20 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2006]: **Sec. 20. (a) Each taxable year, an individual**
4 **who makes a contribution to a college choice 529 investment plan**
5 **established under IC 21-9 for the benefit of a dependent of the**
6 **individual may deduct from the individual's adjusted gross income**
7 **(as defined in IC 6-3-1-3.5(a)) the lesser of:**

8 (1) **the amount of the contribution made by the individual**
9 **during the taxable year; or**

10 (2) **two thousand dollars (\$2,000).**

11 (b) **Notwithstanding subsection (a), a husband and wife filing a**
12 **joint adjusted gross income tax return for a particular taxable year**
13 **may not claim a deduction under this section of more than two**
14 **thousand dollars (\$2,000).**

15 SECTION 2. IC 6-3-2-21 IS ADDED TO THE INDIANA CODE
16 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
17 JANUARY 1, 2005 (RETROACTIVE)]: **Sec. 21. (a) As used in this**

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1 section, "student loan" refers to a qualified education loan (as
2 defined in Section 221 of the Internal Revenue Code).

3 (b) Subject to subsection (d), in each taxable year, an individual
4 who is obligated to repay a student loan may deduct in computing
5 the individual's adjusted gross income the amount determined
6 under STEP TWELVE of the following formula:

7 STEP ONE: Determine the total amount of payments paid by
8 the individual with respect to the individual's student loans
9 during the taxable year.

10 STEP TWO: Determine the part of the STEP ONE result that
11 is attributable to interest and other financing charges.

12 STEP THREE: Subtract the STEP TWO result from the
13 STEP ONE result to determine the part of the STEP ONE
14 result attributable to principal.

15 STEP FOUR: Determine the part of the STEP TWO result
16 deducted by the individual in computing the individual's
17 federal adjusted gross income under Section 62 of the Internal
18 Revenue Code.

19 STEP FIVE: Subtract the STEP FOUR result from the STEP
20 TWO result.

21 STEP SIX: Determine the initial outstanding principal
22 balance on the student loan as of the expiration of the most
23 recent grace period following the final date of attendance at
24 the most recently attended institution of higher education. In
25 the case of a husband and wife filing a joint return, determine
26 this amount independently for each individual, and add the
27 two (2) amounts.

28 STEP SEVEN: Determine the part of the STEP SIX amount
29 deducted by the individual in computing the individual's
30 federal adjusted gross income under Section 62 of the Internal
31 Revenue Code in the current and any prior taxable years.

32 STEP EIGHT: Divide the STEP SEVEN result by the STEP
33 SIX result, rounding to the nearest one thousandth (0.001).

34 STEP NINE: Subtract the STEP EIGHT result from one (1).

35 STEP TEN: Multiply the STEP THREE result by the STEP
36 NINE result.

37 STEP ELEVEN: Add the STEP FIVE result and the STEP
38 TEN result.

39 STEP TWELVE: Determine the lesser of the following:

40 (A) The STEP ELEVEN result.

41 (B) Two thousand dollars (\$2,000).

42 (c) A husband and wife filing a joint adjusted gross income tax

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1 return for a particular taxable year may not claim a deduction
 2 under this section of more than two thousand dollars (\$2,000) in
 3 any taxable year.

4 (d) An individual may not claim the deduction provided by this
 5 section for more than ten (10) taxable years during the individual's
 6 lifetime. For purposes of applying this subsection to an individual
 7 who files a joint return with the individual's spouse, the question
 8 of whether a joint return counts toward each spouse's lifetime
 9 allotment is determined independently for each spouse with
 10 reference to the underlying student loan. A joint return on which
 11 the deduction provided by this section is claimed counts towards a
 12 spouse's lifetime allotment only to the extent that the spouse is
 13 obligated to repay some part of the underlying student loan
 14 payments that are being deducted.

15 SECTION 3. IC 6-3-3-11 IS ADDED TO THE INDIANA CODE
 16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 17 JANUARY 1, 2006]: Sec. 11. (a) As used in this section, "eligible
 18 physician" means a physician:

- 19 (1) who is licensed under IC 25-22.5; and
 20 (2) whose eligibility for the tax credit allowed under this
 21 section is certified by the office.

22 (b) As used in this section, "office" refers to the office of
 23 Medicaid policy and planning established by IC 12-8-6-1.

24 (c) A physician may submit a statement, at the times and in the
 25 form prescribed by the office, requesting a certification of the
 26 physician's eligibility for the tax credit allowed under this section.

27 (d) The office shall certify that a physician is eligible for the tax
 28 credit allowed under this section and issue a certificate of eligibility
 29 to the physician if the physician serves as a primary medical
 30 provider:

- 31 (1) under the Medicaid program under IC 12-15; and
 32 (2) to at least five hundred (500) Medicaid recipients during
 33 the physician's taxable year.

34 (e) An eligible physician is entitled to a credit against the
 35 physician's adjusted gross income tax liability equal to five
 36 hundred dollars (\$500) for each taxable year that the physician's
 37 eligibility for the tax credit is certified by the office.

38 (f) To receive the credit allowed under this section, an eligible
 39 physician must claim the credit on the physician's annual state tax
 40 return or returns in the manner prescribed by the department. The
 41 physician shall submit to the department a copy of the physician's
 42 certificate of eligibility for the tax credit.

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1 (g) The credit allowed by this section may not exceed the
2 amount of the physician's adjusted gross income tax imposed by
3 IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum
4 of all credits (as determined without regard to this section) allowed
5 by IC 6-3-1 through IC 6-3-7.

6 SECTION 4. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE
7 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2005]:

9 **Chapter 25. Credit for Offering Health Benefit Plans**

10 **Sec. 1. This chapter applies to an employer that:**

- 11 (1) employs at least one (1) full-time employee who is located
- 12 in Indiana; and
- 13 (2) does not offer coverage for health care services under a
- 14 self-funded health benefit plan that complies with the federal
- 15 Employee Retirement Income Security Act of 1974 (29 U.S.C.
- 16 1001 et seq.).

17 **Sec. 2. As used in this chapter, "eligible benefits" means, with**
18 **respect to an employee of a taxpayer that claims a credit under**
19 **section 9 of this chapter, the total amount of health insurance**
20 **premiums not included in the employee's federal adjusted gross**
21 **income (as defined in Section 62 of the Internal Revenue Code)**
22 **during a taxable year under the health benefit plan offered by the**
23 **employer.**

24 **Sec. 3. As used in this chapter, "eligible taxpayer" means a**
25 **taxpayer that did not provide health insurance to the taxpayer's**
26 **employees in the taxable year immediately preceding the first**
27 **taxable year for which the taxpayer claims a credit under this**
28 **chapter.**

29 **Sec. 4. As used in this chapter, "full-time employee" means an**
30 **employee who is normally scheduled to work at least thirty (30)**
31 **hours each week.**

32 **Sec. 5. (a) As used in this chapter, "health benefit plan" means**
33 **coverage for health care services provided under:**

- 34 (1) an insurance policy that provides one (1) or more of the
- 35 types of insurance described in Class 1(b) or Class 2(a) of
- 36 IC 27-1-5-1; or
- 37 (2) a contract with a health maintenance organization for
- 38 coverage of basic health care services under IC 27-13;

39 **that satisfies the requirements of Section 125 of the Internal**
40 **Revenue Code.**

41 **(b) The term does not include the following:**

- 42 (1) Accident only, credit, dental, vision, Medicare supplement,

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- 1 long term care, or disability income insurance.
- 2 (2) Coverage issued as a supplement to liability insurance.
- 3 (3) Automobile medical payment insurance.
- 4 (4) A specified disease policy issued as an individual policy.
- 5 (5) A limited benefit health insurance policy issued as an
- 6 individual policy.
- 7 (6) A short term insurance plan that:
- 8 (A) may not be renewed; and
- 9 (B) has a duration of not more than six (6) months.
- 10 (7) A policy that provides a stipulated daily, weekly, or
- 11 monthly payment to an insured during hospital confinement,
- 12 without regard to the actual expense of the confinement.
- 13 (8) Worker's compensation or similar insurance.
- 14 (9) A student health insurance policy.
- 15 Sec. 6. As used in this chapter, "pass through entity" means a:
- 16 (1) corporation that is exempt from the adjusted gross income
- 17 tax under IC 6-3-2-2.8(2);
- 18 (2) partnership;
- 19 (3) limited liability company; or
- 20 (4) limited liability partnership.
- 21 Sec. 7. As used in this chapter, "state tax liability" means a
- 22 taxpayer's total tax liability that is incurred under:
- 23 (1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);
- 24 (2) IC 6-5.5 (financial institutions tax); and
- 25 (3) IC 27-1-18-2 (insurance premiums tax);
- 26 as computed after the application of the credits that under
- 27 IC 6-3.1-1-2 are to be applied before the credit provided by this
- 28 chapter.
- 29 Sec. 8. As used in this chapter, "taxpayer" means an individual
- 30 or entity that:
- 31 (1) has state tax liability; and
- 32 (2) employs at least one (1) full-time employee who is located
- 33 in Indiana.
- 34 Sec. 9. (a) An eligible taxpayer that, after December 31, 2005,
- 35 makes health insurance available to the eligible taxpayer's
- 36 employees and their dependents through at least one (1) health
- 37 benefit plan is entitled to a credit against the taxpayer's state tax
- 38 liability for the first two (2) taxable years in which the taxpayer
- 39 makes the health benefit plan available if the following
- 40 requirements are met:
- 41 (1) An employee's participation in the health benefit plan is at
- 42 the employee's election.

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1 (2) If an employee chooses to participate in the health benefit
2 plan, the employee may pay the employee's share of the cost
3 of the plan using a wage assignment authorized under
4 IC 22-2-6-2.

5 (b) The credit allowed under this chapter equals the lesser of:
6 (1) two thousand five hundred dollars (\$2,500); or
7 (2) fifty dollars (\$50) multiplied by the number of employees
8 enrolled in the health benefit plan during the taxable year.

9 Sec. 10. (a) An employer may pay or provide reimbursement for
10 all or part of the cost of a health benefit plan made available under
11 section 9 of this chapter.

12 (b) An employer that pays or provides reimbursement under
13 subsection (a) shall pay or provide reimbursement on an equal
14 basis for all full-time employees who elect to participate in the
15 health benefit plan.

16 Sec. 11. (a) If the amount determined under section 9 of this
17 chapter for a taxpayer in a taxable year exceeds the taxpayer's
18 state tax liability for that taxable year, the taxpayer may carry the
19 excess over to the following taxable years. The amount of the credit
20 carryover from a taxable year shall be reduced to the extent that
21 the carryover is used by the taxpayer to obtain a credit under this
22 chapter for any subsequent taxable year. A taxpayer is not entitled
23 to a carryback.

24 (b) A taxpayer is not entitled to a refund of any unused credit.

25 Sec. 12. If a pass through entity does not have state income tax
26 liability against which the tax credit may be applied, a shareholder
27 or partner of the pass through entity is entitled to a tax credit equal
28 to:

- 29 (1) the tax credit determined for the pass through entity for
30 the taxable year; multiplied by
31 (2) the percentage of the pass through entity's distributive
32 income to which the shareholder or partner is entitled.

33 Sec. 13. To receive the credit provided by this chapter, a
34 taxpayer must claim the credit on the taxpayer's state tax return
35 or returns in the manner prescribed by the department. The
36 taxpayer must submit to the department all information that the
37 department determines is necessary to calculate the credit
38 provided by this chapter and to determine the taxpayer's eligibility
39 for the credit.

40 Sec. 14. (a) A taxpayer claiming a credit under this chapter shall
41 continue to make health insurance available to the taxpayer's
42 employees through a health benefit plan for at least twenty-four

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1 (24) consecutive months beginning on the day after the last day of
 2 the taxable year in which the taxpayer first offers the health benefit
 3 plan.

4 (b) If the taxpayer terminates the health benefit plan before the
 5 expiration of the period required under subsection (a), the
 6 taxpayer shall repay the department the amount of the credit
 7 received under section 9 of this chapter.

8 SECTION 5. IC 16-41-37-4 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. A person who
 10 smokes:

11 (1) in a public building, except in an area designated as a smoking
 12 area under section 5 of this chapter;

13 (2) in the retail area of a grocery store or drug store that is
 14 designated as a nonsmoking area by the store's proprietor;

15 (3) in the dining area of a restaurant that is designated and posted
 16 as the restaurant's nonsmoking area by the restaurant's proprietor;

17 or

18 (4) in a school bus during a school week or while the school bus
 19 is being used for a purpose described in section 2.3(3) of this
 20 chapter;

21 (5) in a public means of mass transportation, including an
 22 airplane; or

23 (6) in an enclosed area of a public mass transportation
 24 terminal or waiting area or within fifty (50) feet of an
 25 entrance to the public mass transportation terminal or
 26 waiting area;

27 commits a Class B infraction. However, the violation is a Class A
 28 infraction if the person has at least three (3) previous unrelated
 29 judgments for violating this section that are accrued within the twelve
 30 (12) months immediately preceding the violation.

31 SECTION 6. IC 21-9-4-1 IS AMENDED TO READ AS FOLLOWS
 32 [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) The board of directors
 33 of the authority is established. The board consists of the following:

34 (1) The following four (4) ex officio members or directors:

35 (A) The treasurer of state.

36 (B) The state superintendent of public instruction.

37 (C) The Indiana commissioner of higher education.

38 (D) The budget director.

39 (2) ~~Five (5)~~ **Three (3)** appointed members or directors who:

40 (A) are appointed by the governor; and

41 (B) have knowledge, skill, and experience in academic,
 42 business, financial, or education fields.

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1 (b) During a member's term of service on the board, an appointed
 2 member of the board may not be an official or employee of the state.
 3 (c) Not more than ~~three (3)~~ **two (2)** of the appointed members of the
 4 board may belong to the same political party.
 5 (d) An appointed member serves a four (4) year term. An appointed
 6 member shall hold over after the expiration of the member's term until
 7 the member's successor is appointed and qualified.
 8 (e) The governor may reappoint an appointed member of the board.
 9 (f) A vacancy shall be filled for the balance of an unexpired term in
 10 the same manner as the original appointment.
 11 (g) The treasurer of state shall serve as chairman of the board. The
 12 board shall annually elect one (1) of its ex officio members as vice
 13 chairman, and may elect any other officer that the board desires.
 14 (h) The governor may remove an appointed member for
 15 misfeasance, malfeasance, willful neglect of duty, or other cause after
 16 notice and a public hearing, unless the member expressly waives the
 17 notice and hearing in writing.
 18 SECTION 7. IC 21-9-4-5 IS AMENDED TO READ AS FOLLOWS
 19 [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) ~~Five (5)~~ **Four (4)**
 20 members of the board are a quorum for:
 21 (1) the transaction of business at a meeting of the board; or
 22 (2) the exercise of a power or function of the authority.
 23 (b) This subsection applies to a meeting of the board at which at
 24 least ~~five (5)~~ **four (4)** members of the board are physically present at
 25 the place where the meeting is conducted. A member of the board may
 26 participate in a meeting of the board by using a means of
 27 communication that permits:
 28 (1) the member;
 29 (2) all other members participating in the meeting; and
 30 (3) all members of the public physically present at the place
 31 where the meeting is conducted;
 32 to simultaneously communicate with each other during the meeting. A
 33 member who participates in a meeting described in this subsection is
 34 considered to be present at the meeting. If a meeting is held under this
 35 subsection, the memoranda of the meeting prepared under
 36 IC 5-14-1.5-4 must state the name of each member who was physically
 37 present at the place where the meeting was conducted, who participated
 38 in the meeting by using a means of communication described in this
 39 subsection, and who was absent from the meeting.
 40 (c) The affirmative vote of a majority of all the members of the
 41 board who are present is necessary for the authority to take action. A
 42 vacancy in the membership of the board does not impair the right of a

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1 quorum to exercise all the rights and perform all the duties of the
2 authority. An action taken by the board under this article may be
3 authorized by:

- 4 (1) resolution at any regular or special meeting; or
- 5 (2) unanimous consent of all the members who have not
- 6 abstained.

7 A resolution takes effect immediately upon adoption and need not be
8 published or posted.

9 (d) The board shall meet at the call of the chairman and as provided
10 in the bylaws of the authority.

11 (e) Meetings of the board may be held anywhere in Indiana.

12 SECTION 8. IC 21-9-10-5 IS ADDED TO THE INDIANA CODE
13 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
14 **JANUARY 1, 2006]: Sec. 5. The treasurer of state and the board for**
15 **depositories shall cooperate and provide to the Indiana education**
16 **savings authority the following:**

- 17 (1) **Clerical and professional staff and related support.**
- 18 (2) **Office space and services.**
- 19 (3) **Reasonable financial support for the development of rules,**
- 20 **policies, programs, and guidelines, including authority**
- 21 **operations and travel.**

22 SECTION 9. [EFFECTIVE JANUARY 1, 2006] **IC 6-3-2-20, as**
23 **added by this act, applies to taxable years beginning after**
24 **December 31, 2005.**

25 SECTION 10. [EFFECTIVE JANUARY 1, 2005
26 (RETROACTIVE)] **IC 6-3-2-21, as added by this act, applies only to**
27 **taxable years beginning after December 31, 2004.**

28 SECTION 11. [EFFECTIVE JANUARY 1, 2006] **IC 6-3-3-11, as**
29 **added by this act, applies to taxable years beginning after**
30 **December 31, 2005.**

31 SECTION 12. [EFFECTIVE JULY 1, 2005] **IC 6-3.1-25, as added**
32 **by this act, applies only to taxable years beginning after December**
33 **31, 2005.**

34 SECTION 13. **An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 459, 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.

(Reference is made to Senate Bill 459 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 7, Nays 0.

SENATE MOTION

Madam President: I move that Senator Simpson be added as coauthor of Senate Bill 459.

DILLON

SENATE MOTION

Madam President: I move that Senate Bill 459 be amended to read as follows:

Page 4, line 13, delete "6-3.1-25-15(a)." and insert "**6-3.1-25-15(a) or IC 6-3.1-25-15-(b).**".

Page 10, delete lines 11 through 14, begin a new paragraph and insert:

"(b) For each taxable year following the taxable year described in subsection (a)(2), a percentage of an employee's eligible benefits are included in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) as follows:

- (1) For an employee whose annual income derived from the taxpayer is forty thousand dollars (\$40,000) or less, zero percent (0%).**
- (2) For an employee whose annual income derived from the taxpayer is greater than forty thousand dollars (\$40,000) and less than eighty thousand dollars (\$80,000), fifty percent (50%).**
- (3) For an employee whose annual income derived from the taxpayer is eighty thousand dollars (\$80,000) or greater, one hundred percent (100%)."**



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Page 10, line 15, delete (b) and insert "(c)".

(Reference is to SB 459 as printed February 25, 2005.)

DILLON

SENATE MOTION

Madam President: I move that Senator Lanane be added as coauthor of Engrossed Senate Bill 459.

DILLON

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 459, 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, delete lines 1 through 17.

Delete pages 2 through 6, begin a new paragraph and insert:

"SECTION 1. IC 6-3-2-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 20. (a) Each taxable year, an individual who makes a contribution to a college choice 529 investment plan established under IC 21-9 for the benefit of a dependent of the individual may deduct from the individual's adjusted gross income (as defined in IC 6-3-1-3.5(a)) the lesser of:**

(1) the amount of the contribution made by the individual during the taxable year; or

(2) two thousand dollars (\$2,000).

(b) Notwithstanding subsection (a), a husband and wife filing a joint adjusted gross income tax return for a particular taxable year may not claim a deduction under this section of more than two thousand dollars (\$2,000)."

Page 7, line 6, delete "ten (10) full-time employees who are" and insert "**one (1) full-time employee who is**".

Page 8, line 27, delete "ten (10) full-time employees who are" and insert "**one (1) full-time employee who is**".

Page 10, delete lines 3 through 33, begin a new paragraph and insert:

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"SECTION 3. IC 21-9-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) The board of directors of the authority is established. The board consists of the following:

- (1) The following four (4) ex officio members or directors:
 - (A) The treasurer of state.
 - (B) The state superintendent of public instruction.
 - (C) The Indiana commissioner of higher education.
 - (D) The budget director.
- (2) ~~Five (5)~~ **Three (3)** appointed members or directors who:
 - (A) are appointed by the governor; and
 - (B) have knowledge, skill, and experience in academic, business, financial, or education fields.

(b) During a member's term of service on the board, an appointed member of the board may not be an official or employee of the state.

(c) Not more than ~~three (3)~~ **two (2)** of the appointed members of the board may belong to the same political party.

(d) An appointed member serves a four (4) year term. An appointed member shall hold over after the expiration of the member's term until the member's successor is appointed and qualified.

(e) The governor may reappoint an appointed member of the board.

(f) A vacancy shall be filled for the balance of an unexpired term in the same manner as the original appointment.

(g) The treasurer of state shall serve as chairman of the board. The board shall annually elect one (1) of its ex officio members as vice chairman, and may elect any other officer that the board desires.

(h) The governor may remove an appointed member for misfeasance, malfeasance, willful neglect of duty, or other cause after notice and a public hearing, unless the member expressly waives the notice and hearing in writing.

SECTION 4. IC 21-9-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) ~~Five (5)~~ **Four (4)** members of the board are a quorum for:

- (1) the transaction of business at a meeting of the board; or
- (2) the exercise of a power or function of the authority.

(b) This subsection applies to a meeting of the board at which at least ~~five (5)~~ **four (4)** members of the board are physically present at the place where the meeting is conducted. A member of the board may participate in a meeting of the board by using a means of communication that permits:

- (1) the member;
- (2) all other members participating in the meeting; and

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(3) all members of the public physically present at the place where the meeting is conducted; to simultaneously communicate with each other during the meeting. A member who participates in a meeting described in this subsection is considered to be present at the meeting. If a meeting is held under this subsection, the memoranda of the meeting prepared under IC 5-14-1.5-4 must state the name of each member who was physically present at the place where the meeting was conducted, who participated in the meeting by using a means of communication described in this subsection, and who was absent from the meeting.

(c) The affirmative vote of a majority of all the members of the board who are present is necessary for the authority to take action. A vacancy in the membership of the board does not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. An action taken by the board under this article may be authorized by:

- (1) resolution at any regular or special meeting; or
- (2) unanimous consent of all the members who have not abstained.

A resolution takes effect immediately upon adoption and need not be published or posted.

(d) The board shall meet at the call of the chairman and as provided in the bylaws of the authority.

(e) Meetings of the board may be held anywhere in Indiana.

SECTION 5. IC 21-9-10-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 5. The treasurer of state and the board for depositories shall cooperate and provide to the Indiana education savings authority the following:**

- (1) Clerical and professional staff and related support.**
- (2) Office space and services.**
- (3) Reasonable financial support for the development of rules, policies, programs, and guidelines, including authority operations and travel.**

SECTION 6. [EFFECTIVE JANUARY 1, 2006] **IC 6-3-2-20, as added by this act, applies to taxable years beginning after December 31, 2005."**

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Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to SB 459 as reprinted March 1, 2005.)

ESPICH, Chair

Committee Vote: yeas 21, nays 0.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 459 be amended to read as follows:

Page 4, between lines 41 and 42, begin a new paragraph and insert:
"SECTION 3. IC 16-41-37-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. A person who smokes:

- (1) in a public building, except in an area designated as a smoking area under section 5 of this chapter;
- (2) in the retail area of a grocery store or drug store that is designated as a nonsmoking area by the store's proprietor;
- (3) in the dining area of a restaurant that is designated and posted as the restaurant's nonsmoking area by the restaurant's proprietor;
- or
- (4) in a school bus during a school week or while the school bus is being used for a purpose described in section 2.3(3) of this chapter;
- (5) in a public means of mass transportation, including an airplane; or**
- (6) in an enclosed area of a public mass transportation terminal or waiting area or within fifty (50) feet of an entrance to the public mass transportation terminal or waiting area;**

commits a Class B infraction. However, the violation is a Class A infraction if the person has at least three (3) previous unrelated judgments for violating this section that are accrued within the twelve (12) months immediately preceding the violation."

Renumber all SECTIONS consecutively.

(Reference is to ESB 459 as reprinted March 25, 2005.)

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 459 be amended to read as follows:

Page 1, between lines 14 and 15, begin a new paragraph and insert: "SECTION 2. IC 6-3-3-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 11. (a) As used in this section, "eligible physician" means a physician:**

- (1) who is licensed under IC 25-22.5; and**
- (2) whose eligibility for the tax credit allowed under this section is certified by the office.**

(b) As used in this section, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(c) A physician may submit a statement, at the times and in the form prescribed by the office, requesting a certification of the physician's eligibility for the tax credit allowed under this section.

(d) The office shall certify that a physician is eligible for the tax credit allowed under this section and issue a certificate of eligibility to the physician if the physician serves as a primary medical provider:

- (1) under the Medicaid program under IC 12-15; and**
- (2) to at least five hundred (500) Medicaid recipients during the physician's taxable year.**

(e) An eligible physician is entitled to a credit against the physician's adjusted gross income tax liability equal to five hundred dollars (\$500) for each taxable year that the physician's eligibility for the tax credit is certified by the office.

(f) To receive the credit allowed under this section, an eligible physician must claim the credit on the physician's annual state tax return or returns in the manner prescribed by the department. The physician shall submit to the department a copy of the physician's certificate of eligibility for the tax credit.

(g) The credit allowed by this section may not exceed the amount of the physician's adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by IC 6-3-1 through IC 6-3-7."

Page 6, between lines 35 and 36, begin a new paragraph and insert: "SECTION 8. [EFFECTIVE JANUARY 1, 2006] **IC 6-3-3-11, as added by this act, applies to taxable years beginning after December 31, 2005."**

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Renumber all SECTIONS consecutively.

(Reference is to ESB 459 as printed March 25, 2005.)

WELCH

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 459 be amended to read as follows:

Page 1, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 2. IC 6-3-2-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: **Sec. 21. (a) As used in this section, "student loan" refers to a qualified education loan (as defined in Section 221 of the Internal Revenue Code).**

(b) Subject to subsection (d), in each taxable year, an individual who is obligated to repay a student loan may deduct in computing the individual's adjusted gross income the amount determined under STEP TWELVE of the following formula:

STEP ONE: Determine the total amount of payments paid by the individual with respect to the individual's student loans during the taxable year.

STEP TWO: Determine the part of the STEP ONE result that is attributable to interest and other financing charges.

STEP THREE: Subtract the STEP TWO result from the STEP ONE result to determine the part of the STEP ONE result attributable to principal.

STEP FOUR: Determine the part of the STEP TWO result deducted by the individual in computing the individual's federal adjusted gross income under Section 62 of the Internal Revenue Code.

STEP FIVE: Subtract the STEP FOUR result from the STEP TWO result.

STEP SIX: Determine the initial outstanding principal balance on the student loan as of the expiration of the most recent grace period following the final date of attendance at the most recently attended institution of higher education. In the case of a husband and wife filing a joint return, determine this amount independently for each individual, and add the two (2) amounts.

STEP SEVEN: Determine the part of the STEP SIX amount

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deducted by the individual in computing the individual's federal adjusted gross income under Section 62 of the Internal Revenue Code in the current and any prior taxable years.

STEP EIGHT: Divide the STEP SEVEN result by the STEP SIX result, rounding to the nearest one thousandth (0.001).

STEP NINE: Subtract the STEP EIGHT result from one (1).

STEP TEN: Multiply the STEP THREE result by the STEP NINE result.

STEP ELEVEN: Add the STEP FIVE result and the STEP TEN result.

STEP TWELVE: Determine the lesser of the following:

- (A) The STEP ELEVEN result.
- (B) Two thousand dollars (\$2,000).

(c) A husband and wife filing a joint adjusted gross income tax return for a particular taxable year may not claim a deduction under this section of more than two thousand dollars (\$2,000) in any taxable year.

(d) An individual may not claim the deduction provided by this section for more than ten (10) taxable years during the individual's lifetime. For purposes of applying this subsection to an individual who files a joint return with the individual's spouse, the question of whether a joint return counts toward each spouse's lifetime allotment is determined independently for each spouse with reference to the underlying student loan. A joint return on which the deduction provided by this section is claimed counts towards a spouse's lifetime allotment only to the extent that the spouse is obligated to repay some part of the underlying student loan payments that are being deducted."

Page 6, between lines 35 and 36, begin a new paragraph and insert: "SECTION 8. [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)] IC 6-3-2-21, as added by this act, applies only to taxable years beginning after December 31, 2004."

Page 6, after line 38, begin a new paragraph and insert: "SECTION 10. An emergency is declared for this act."
Renummer all SECTIONS consecutively.

(Reference is to ESB 459 as printed March 25, 2005.)

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