

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 117 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 taxation.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 6-3-1-3.5 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3.5. When used in this
- 8 article, the term "adjusted gross income" shall mean the following:
- 9 (a) In the case of all individuals, "adjusted gross income" (as defined
- 10 in Section 62 of the Internal Revenue Code), modified as follows:
- 11 (1) Subtract income that is exempt from taxation under this article
- 12 by the Constitution and statutes of the United States.
- 13 (2) Add an amount equal to any deduction or deductions allowed
- 14 or allowable pursuant to Section 62 of the Internal Revenue Code
- 15 for taxes based on or measured by income and levied at the state
- 16 level by any state of the United States.
- 17 (3) Subtract one thousand dollars (\$1,000), or in the case of a joint
- 18 return filed by a husband and wife, subtract for each spouse one
- 19 thousand dollars (\$1,000).
- 20 (4) Subtract one thousand dollars (\$1,000) for:
- 21 (A) each of the exemptions provided by Section 151(c) of the
- 22 Internal Revenue Code;
- 23 (B) each additional amount allowable under Section 63(f) of
- 24 the Internal Revenue Code; and
- 25 (C) the spouse of the taxpayer if a separate return is made by

- 1 the taxpayer and if the spouse, for the calendar year in which
2 the taxable year of the taxpayer begins, has no gross income
3 and is not the dependent of another taxpayer.
- 4 (5) Subtract:
- 5 (A) one thousand five hundred dollars (\$1,500) for each of the
6 exemptions allowed under Section 151(c)(1)(B) of the Internal
7 Revenue Code for taxable years beginning after December 31,
8 1996; and
- 9 (B) five hundred dollars (\$500) for each additional amount
10 allowable under Section 63(f)(1) of the Internal Revenue Code
11 if the adjusted gross income of the taxpayer, or the taxpayer
12 and the taxpayer's spouse in the case of a joint return, is less
13 than forty thousand dollars (\$40,000).
- 14 This amount is in addition to the amount subtracted under
15 subdivision (4).
- 16 (6) Subtract an amount equal to the lesser of:
- 17 (A) that part of the individual's adjusted gross income (as
18 defined in Section 62 of the Internal Revenue Code) for that
19 taxable year that is subject to a tax that is imposed by a
20 political subdivision of another state and that is imposed on or
21 measured by income; or
- 22 (B) two thousand dollars (\$2,000).
- 23 (7) Add an amount equal to the total capital gain portion of a lump
24 sum distribution (as defined in Section 402(e)(4)(D) of the
25 Internal Revenue Code) if the lump sum distribution is received
26 by the individual during the taxable year and if the capital gain
27 portion of the distribution is taxed in the manner provided in
28 Section 402 of the Internal Revenue Code.
- 29 (8) Subtract any amounts included in federal adjusted gross
30 income under Section 111 of the Internal Revenue Code as a
31 recovery of items previously deducted as an itemized deduction
32 from adjusted gross income.
- 33 (9) Subtract any amounts included in federal adjusted gross
34 income under the Internal Revenue Code which amounts were
35 received by the individual as supplemental railroad retirement
36 annuities under 45 U.S.C. 231 and which are not deductible under
37 subdivision (1).
- 38 (10) Add an amount equal to the deduction allowed under Section
39 221 of the Internal Revenue Code for married couples filing joint
40 returns if the taxable year began before January 1, 1987.
- 41 (11) Add an amount equal to the interest excluded from federal
42 gross income by the individual for the taxable year under Section
43 128 of the Internal Revenue Code if the taxable year began before
44 January 1, 1985.
- 45 (12) Subtract an amount equal to the amount of federal Social
46 Security and Railroad Retirement benefits included in a taxpayer's
47 federal gross income by Section 86 of the Internal Revenue Code.

- 1 (13) In the case of a nonresident taxpayer or a resident taxpayer
2 residing in Indiana for a period of less than the taxpayer's entire
3 taxable year, the total amount of the deductions allowed pursuant
4 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount
5 which bears the same ratio to the total as the taxpayer's income
6 taxable in Indiana bears to the taxpayer's total income.
- 7 (14) In the case of an individual who is a recipient of assistance
8 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,
9 subtract an amount equal to that portion of the individual's
10 adjusted gross income with respect to which the individual is not
11 allowed under federal law to retain an amount to pay state and
12 local income taxes.
- 13 (15) In the case of an eligible individual, subtract the amount of
14 a Holocaust victim's settlement payment included in the
15 individual's federal adjusted gross income.
- 16 (16) For taxable years beginning after December 31, 1999,
17 subtract an amount equal to the portion of any premiums paid
18 during the taxable year by the taxpayer for a qualified long term
19 care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the
20 taxpayer's spouse, or both.
- 21 (17) Subtract an amount equal to the lesser of:
- 22 (A) for a taxable year:
- 23 (i) including any part of 2004, the amount determined under
24 subsection (f); and
- 25 (ii) beginning after December 31, 2004, two thousand five
26 hundred dollars (\$2,500); or
- 27 (B) the amount of property taxes that are paid during the
28 taxable year in Indiana by the individual on the individual's
29 principal place of residence.
- 30 (18) Subtract an amount equal to the amount of a September 11
31 terrorist attack settlement payment included in the individual's
32 federal adjusted gross income.
- 33 (19) Add or subtract the amount necessary to make the adjusted
34 gross income of any taxpayer that owns property for which bonus
35 depreciation was allowed in the current taxable year or in an
36 earlier taxable year equal to the amount of adjusted gross income
37 that would have been computed had an election not been made
38 under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to
39 apply bonus depreciation to the property in the year that it was
40 placed in service.
- 41 (20) Add an amount equal to any deduction allowed under Section
42 172 of the Internal Revenue Code.
- 43 **(21) In the case of an individual who is employed by a**
44 **taxpayer that claims a credit under IC 6-3.1-25-9, add the**
45 **amount of the individual's eligible benefits as provided in**
46 **IC 6-3.1-25-15(a) or IC 6-3.1-25-15(b).**
- 47 (b) In the case of corporations, the same as "taxable income" (as

1 defined in Section 63 of the Internal Revenue Code) adjusted as
2 follows:

3 (1) Subtract income that is exempt from taxation under this article
4 by the Constitution and statutes of the United States.

5 (2) Add an amount equal to any deduction or deductions allowed
6 or allowable pursuant to Section 170 of the Internal Revenue
7 Code.

8 (3) Add an amount equal to any deduction or deductions allowed
9 or allowable pursuant to Section 63 of the Internal Revenue Code
10 for taxes based on or measured by income and levied at the state
11 level by any state of the United States.

12 (4) Subtract an amount equal to the amount included in the
13 corporation's taxable income under Section 78 of the Internal
14 Revenue Code.

15 (5) Add or subtract the amount necessary to make the adjusted
16 gross income of any taxpayer that owns property for which bonus
17 depreciation was allowed in the current taxable year or in an
18 earlier taxable year equal to the amount of adjusted gross income
19 that would have been computed had an election not been made
20 under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to
21 apply bonus depreciation to the property in the year that it was
22 placed in service.

23 (6) Add an amount equal to any deduction allowed under Section
24 172 of the Internal Revenue Code.

25 (c) In the case of life insurance companies (as defined in Section
26 816(a) of the Internal Revenue Code) that are organized under Indiana
27 law, the same as "life insurance company taxable income" (as defined
28 in Section 801 of the Internal Revenue Code), adjusted as follows:

29 (1) Subtract income that is exempt from taxation under this article
30 by the Constitution and statutes of the United States.

31 (2) Add an amount equal to any deduction allowed or allowable
32 under Section 170 of the Internal Revenue Code.

33 (3) Add an amount equal to a deduction allowed or allowable
34 under Section 805 or Section 831(c) of the Internal Revenue Code
35 for taxes based on or measured by income and levied at the state
36 level by any state.

37 (4) Subtract an amount equal to the amount included in the
38 company's taxable income under Section 78 of the Internal
39 Revenue Code.

40 (5) Add or subtract the amount necessary to make the adjusted
41 gross income of any taxpayer that owns property for which bonus
42 depreciation was allowed in the current taxable year or in an
43 earlier taxable year equal to the amount of adjusted gross income
44 that would have been computed had an election not been made
45 under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to
46 apply bonus depreciation to the property in the year that it was
47 placed in service.

- 1 (6) Add an amount equal to any deduction allowed under Section
2 172 or Section 810 of the Internal Revenue Code.
- 3 (d) In the case of insurance companies subject to tax under Section
4 831 of the Internal Revenue Code and organized under Indiana law, the
5 same as "taxable income" (as defined in Section 832 of the Internal
6 Revenue Code), adjusted as follows:
- 7 (1) Subtract income that is exempt from taxation under this article
8 by the Constitution and statutes of the United States.
- 9 (2) Add an amount equal to any deduction allowed or allowable
10 under Section 170 of the Internal Revenue Code.
- 11 (3) Add an amount equal to a deduction allowed or allowable
12 under Section 805 or Section 831(c) of the Internal Revenue Code
13 for taxes based on or measured by income and levied at the state
14 level by any state.
- 15 (4) Subtract an amount equal to the amount included in the
16 company's taxable income under Section 78 of the Internal
17 Revenue Code.
- 18 (5) Add or subtract the amount necessary to make the adjusted
19 gross income of any taxpayer that owns property for which bonus
20 depreciation was allowed in the current taxable year or in an
21 earlier taxable year equal to the amount of adjusted gross income
22 that would have been computed had an election not been made
23 under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to
24 apply bonus depreciation to the property in the year that it was
25 placed in service.
- 26 (6) Add an amount equal to any deduction allowed under Section
27 172 of the Internal Revenue Code.
- 28 (e) In the case of trusts and estates, "taxable income" (as defined for
29 trusts and estates in Section 641(b) of the Internal Revenue Code)
30 adjusted as follows:
- 31 (1) Subtract income that is exempt from taxation under this article
32 by the Constitution and statutes of the United States.
- 33 (2) Subtract an amount equal to the amount of a September 11
34 terrorist attack settlement payment included in the federal adjusted
35 gross income of the estate of a victim of the September 11 terrorist
36 attack or a trust to the extent the trust benefits a victim of the
37 September 11 terrorist attack.
- 38 (3) Add or subtract the amount necessary to make the adjusted
39 gross income of any taxpayer that owns property for which bonus
40 depreciation was allowed in the current taxable year or in an
41 earlier taxable year equal to the amount of adjusted gross income
42 that would have been computed had an election not been made
43 under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to
44 apply bonus depreciation to the property in the year that it was
45 placed in service.
- 46 (4) Add an amount equal to any deduction allowed under Section
47 172 of the Internal Revenue Code.

1 (f) This subsection applies only to the extent that an individual paid
 2 property taxes in 2004 that were imposed for the March 1, 2002,
 3 assessment date or the January 15, 2003, assessment date. The
 4 maximum amount of the deduction under subsection (a)(17) is equal to
 5 the amount determined under STEP FIVE of the following formula:

6 STEP ONE: Determine the amount of property taxes that the
 7 taxpayer paid after December 31, 2003, in the taxable year for
 8 property taxes imposed for the March 1, 2002, assessment date
 9 and the January 15, 2003, assessment date.

10 STEP TWO: Determine the amount of property taxes that the
 11 taxpayer paid in the taxable year for the March 1, 2003,
 12 assessment date and the January 15, 2004, assessment date.

13 STEP THREE: Determine the result of the STEP ONE amount
 14 divided by the STEP TWO amount.

15 STEP FOUR: Multiply the STEP THREE amount by two
 16 thousand five hundred dollars (\$2,500).

17 STEP FIVE: Determine the sum of the STEP ~~THREE~~ **FOUR**
 18 amount and two thousand five hundred dollars (\$2,500).

19 SECTION 2. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE
 20 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2006]:

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

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

24 (1) **employs at least ten (10) full-time employees who are**
 25 **located in Indiana; and**

26 (2) **does not offer coverage for health care services under a**
 27 **self-funded health benefit plan that complies with the federal**
 28 **Employee Retirement Income Security Act of 1974 (29 U.S.C.**
 29 **1001 et seq.).**

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

37 **Sec. 3. As used in this chapter, "eligible taxpayer" means a**
 38 **taxpayer that did not provide health insurance to the taxpayer's**
 39 **employees in the taxable year immediately preceding the first**
 40 **taxable year for which the taxpayer claims a credit under this**
 41 **chapter.**

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

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

47 (1) **an insurance policy that provides one (1) or more of the**

1 types of insurance described in Class 1(b) or Class 2(a) of
2 IC 27-1-5-1; or

3 (2) a contract with a health maintenance organization for
4 coverage of basic health care services under IC 27-13;

5 that satisfies the requirements of Section 125 of the Internal
6 Revenue Code.

7 (b) The term does not include the following:

8 (1) Accident only, credit, dental, vision, Medicare supplement,
9 long term care, or disability income insurance.

10 (2) Coverage issued as a supplement to liability insurance.

11 (3) Automobile medical payment insurance.

12 (4) A specified disease policy issued as an individual policy.

13 (5) A limited benefit health insurance policy issued as an
14 individual policy.

15 (6) A short term insurance plan that:

16 (A) may not be renewed; and

17 (B) has a duration of not more than six (6) months.

18 (7) A policy that provides a stipulated daily, weekly, or
19 monthly payment to an insured during hospital confinement,
20 without regard to the actual expense of the confinement.

21 (8) Worker's compensation or similar insurance.

22 (9) A student health insurance policy.

23 Sec. 6. As used in this chapter, "pass through entity" means a:

24 (1) corporation that is exempt from the adjusted gross income
25 tax under IC 6-3-2-2.8(2);

26 (2) partnership;

27 (3) limited liability company; or

28 (4) limited liability partnership.

29 Sec. 7. As used in this chapter, "state tax liability" means a
30 taxpayer's total tax liability that is incurred under:

31 (1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);

32 (2) IC 6-5.5 (financial institutions tax); and

33 (3) IC 27-1-18-2 (insurance premiums tax);

34 as computed after the application of the credits that under
35 IC 6-3.1-1-2 are to be applied before the credit provided by this
36 chapter.

37 Sec. 8. As used in this chapter, "taxpayer" means an individual
38 or entity that:

39 (1) has state tax liability; and

40 (2) employs at least ten (10) full-time employees who are
41 located in Indiana.

42 Sec. 9. (a) An eligible taxpayer that, after December 31, 2006,
43 makes health insurance available to the eligible taxpayer's
44 employees and their dependents through at least one (1) health
45 benefit plan is entitled to a credit against the taxpayer's state tax
46 liability for the first two (2) taxable years in which the taxpayer

1 makes the health benefit plan available if the following
2 requirements are met:

3 (1) An employee's participation in the health benefit plan is at
4 the employee's election.

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

9 (b) The credit allowed under this chapter equals the lesser of:

10 (1) two thousand five hundred dollars (\$2,500); or

11 (2) fifty dollars (\$50) multiplied by the number of employees
12 enrolled in the health benefit plan during the taxable year.

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

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

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

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

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

33 (1) the tax credit determined for the pass through entity for
34 the taxable year; multiplied by

35 (2) the percentage of the pass through entity's distributive
36 income to which the shareholder or partner is entitled.

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

43 Sec. 14. (a) A taxpayer claiming a credit under this chapter shall
44 continue to make health insurance available to the taxpayer's
45 employees through a health benefit plan for at least twenty-four
46 (24) consecutive months beginning on the day after the last day of

1 the taxable year in which the taxpayer first offers the health benefit
2 plan.

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

7 **Sec. 15. (a)** An employee of a taxpayer that claims a credit under
8 this chapter shall include in the employee's state adjusted gross
9 income (as defined in IC 6-3-1-3.5(a)) the employee's eligible
10 benefits for:

11 (1) the first taxable year in which the taxpayer offers the
12 health benefit plan; and

13 (2) the taxable year immediately following the first taxable
14 year in which the taxpayer offers the health benefit plan.

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

19 (1) For an employee whose annual income derived from the
20 taxpayer is forty thousand dollars (\$40,000) or less, zero
21 percent (0%).

22 (2) For an employee whose annual income derived from the
23 taxpayer is greater than forty thousand dollars (\$40,000) and
24 less than eighty thousand dollars (\$80,000), fifty percent
25 (50%).

26 (3) For an employee whose annual income derived from the
27 taxpayer is eighty thousand dollars (\$80,000) or greater, one
28 hundred percent (100%).

29 (c) A taxpayer that claims a credit under this chapter shall
30 notify each of the taxpayer's employees of the amount included in
31 the employee's state adjusted gross income (as defined in
32 IC 6-3-1-3.5(a)) under subsection (a) at the same time the taxpayer
33 provides the employee with the employee's W-2 federal income tax
34 withholding statement for the taxable year."

35 Page 4, between lines 10 and 11, begin a new paragraph and insert:

36 "SECTION 8. [EFFECTIVE JULY 1, 2006] IC 6-3-1-3.5, as
37 amended by this act, applies only to taxable years beginning after
38 December 31, 2006.

39 SECTION 9. [EFFECTIVE JULY 1, 2006] IC 6-3.1-25, as added
40 by this act, applies only to taxable years beginning after December
41 31, 2006."

42 Renumber all SECTIONS consecutively.

(Reference is to ESB 117 as printed February 14, 2006.)

