

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Senate Bill 500 be amended to read as follows:

- 1           Page 12, line 12, after "fiscal" insert "**year**".
- 2           Page 16, delete lines 30 through 42, begin a new paragraph and
- 3 insert:
- 4           "SECTION 14. IC 6-3-3-12, AS ADDED BY P.L.192-2006,
- 5 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 6 JANUARY 1, 2007 (RETROACTIVE)]: Sec. 12. **(a) As used in this**
- 7 **section, "account" has the meaning set forth in IC 21-9-2-2.**
- 8           **(b) As used in this section, "account beneficiary" has the**
- 9 **meaning set forth in IC 21-9-2-3.**
- 10          **(c) As used in this section, "account owner" has the meaning set**
- 11 **forth in IC 21-9-2-4.**
- 12          ~~(a)~~ **(d) As used in this section, "college choice 529 education**
- 13 **savings plan" refers to a college choice 529 investment plan established**
- 14 **under IC 21-9.**
- 15          **(e) As used in this section, "non-qualified withdrawal" means a**
- 16 **withdrawal or distribution from a college choice 529 education**
- 17 **savings plan that is not a qualified withdrawal.**
- 18          **(f) As used in this section, "qualified higher education expenses"**
- 19 **has the meaning set forth in IC 21-9-2-19.5.**
- 20          **(g) As used in this section, "qualified withdrawal" means a**
- 21 **withdrawal or distribution from a college choice 529 education**
- 22 **savings plan that is made:**
- 23           **(1) to pay for qualified higher education expenses, excluding**
- 24 **any withdrawals or distributions used to pay for qualified**
- 25 **higher education expenses if the withdrawals or distributions**
- 26 **are made from an account of a college choice 529 education**
- 27 **savings plan that is terminated within twelve (12) months**
- 28 **after the account is opened;**
- 29           **(2) as a result of the death or disability of an account**
- 30 **beneficiary;**
- 31           **(3) because an account beneficiary received a scholarship that**

1           **paid for all or part of the qualified higher education expenses**  
 2           **of the account beneficiary, to the extent that the withdrawal**  
 3           **or distribution does not exceed the amount of the scholarship;**  
 4           **or**

5           **(4) by a college choice 529 education savings plan as the result**  
 6           **of a transfer of funds by a college choice 529 education**  
 7           **savings plan from one (1) third party custodian to another.**

8           ~~(b)~~ **(h)** As used in this section, "taxpayer" means:

9                   (1) an individual filing a single return; or

10                  (2) a married couple filing a joint return.

11           ~~(c)~~ **(i)** A taxpayer is entitled to a credit against the taxpayer's  
 12           adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for a  
 13           taxable year equal to the least of the following:

14                   (1) Twenty percent (20%) of the amount of ~~each contribution the~~  
 15                   **total contributions** made by the taxpayer to **an account or**  
 16                   **accounts of** a college choice 529 education savings plan during  
 17                   the taxable year.

18                   (2) One thousand dollars (\$1,000).

19                   (3) The amount of the taxpayer's adjusted gross income tax  
 20                   imposed by IC 6-3-1 through IC 6-3-7 for the taxable year,  
 21                   reduced by the sum of all credits (as determined without regard to  
 22                   this section) allowed by IC 6-3-1 through IC 6-3-7.

23           ~~(d)~~ **(j)** A taxpayer is not entitled to a carryback, carryover, or refund  
 24           of an unused credit.

25           ~~(e)~~ **(k)** A taxpayer may not sell, assign, convey, or otherwise transfer  
 26           the tax credit provided by this section.

27           ~~(f)~~ **(l)** To receive the credit provided by this section, a taxpayer must  
 28           claim the credit on the taxpayer's annual state tax return or returns in  
 29           the manner prescribed by the department. The taxpayer shall submit to  
 30           the department all information that the department determines is  
 31           necessary for the calculation of the credit provided by this section.

32           **(m) An account owner of an account of a college choice 529**  
 33           **education savings plan must repay all or a part of the credit in a**  
 34           **taxable year in which any non-qualified withdrawal is made from**  
 35           **the account. The amount the taxpayer must repay is equal to the**  
 36           **lesser of:**

37                   **(1) twenty percent (20%) of the total amount of non-qualified**  
 38                   **withdrawals made during the taxable year from the account;**  
 39                   **or**

40                   **(2) the excess of:**

41                           **(A) the cumulative amount of all credits provided by this**  
 42                           **section that were claimed by any taxpayer with respect to**  
 43                           **the taxpayer's contributions to the account for all prior**  
 44                           **taxable years beginning on or after January 1, 2007; over**

45                           **(B) the cumulative amount of repayments paid by the**  
 46                           **account owner under this subsection for all prior taxable**  
 47                           **years beginning on or after January 1, 2008.**

1           **(n) Any required repayment under subsection (m) shall be**  
2 **reported by the account owner on the account owner's annual state**  
3 **income tax return for any taxable year in which a non-qualified**  
4 **withdrawal is made.**

5           **(o) The executive director of the Indiana education savings**  
6 **authority shall submit or cause to be submitted to the department**  
7 **a copy of all information returns or statements issued to account**  
8 **owners, account beneficiaries, and other taxpayers for each taxable**  
9 **year with respect to:**

10           **(1) non-qualified withdrawals made from accounts of a college**  
11 **choice 529 education savings plan for the taxable year; or**

12           **(2) account closings for the taxable year."**

13           Delete page 17.

14           Page 18, delete lines 1 through 38.

15           Renumber all SECTIONS consecutively.

(Reference is to SB 500 as printed January 30, 2007.)

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Senator KENLEY