

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1149 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 alcohol and tobacco and to make an appropriation.
4 Page 1, between the enacting clause and line 1, begin a new
5 paragraph and insert:
6 "SECTION 1. IC 5-10-8-8.5, AS ADDED BY P.L.182-2009(ss),
7 SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2012]: Sec. 8.5. (a) The retiree health benefit trust fund is
9 established to provide funding for a retiree health benefit plan
10 developed under IC 5-10-8.5.
11 (b) The trust fund shall be administered by the budget agency. The
12 expenses of administering the trust fund shall be paid from money in
13 the trust fund. The trust fund consists of: ~~cigarette tax revenues~~
14 ~~deposited in the fund under IC 6-7-1-28.1(7) and other~~
15 **(1) appropriations from the general assembly;**
16 **(2) revenues or designated for deposit in the trust fund by the**
17 **general assembly; and**
18 **(3) transfers to the trust fund under IC 4-12-1.**
19 (c) The treasurer of state shall invest the money in the trust fund not
20 currently needed to meet the obligations of the trust fund in the same
21 manner as other public money may be invested.
22 (d) The trust fund is considered a trust fund for purposes of
23 IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise
24 removed from the trust fund by the state board of finance, the budget
25 agency, or any other state agency.
26 (e) The trust fund shall be established and administered in a manner
27 that complies with Internal Revenue Code requirements concerning
28 health reimbursement arrangement (HRA) trusts. Contributions by the
29 state to the trust fund are irrevocable. All assets held in the trust fund
30 must be held for the exclusive benefit of participants of the retiree

- 1 health benefit plan developed under IC 5-10-8.5 and their beneficiaries.
 2 All assets in the trust fund:
 3 (1) are dedicated exclusively to providing benefits to participants
 4 of the plan and their beneficiaries according to the terms of the
 5 plan; and
 6 (2) are exempt from levy, sale, garnishment, attachment, or other
 7 legal process.
 8 (f) Money in the trust fund does not revert to the state general fund
 9 at the end of any state fiscal year.
 10 (g) The money in the trust fund is appropriated to the budget agency
 11 for providing the retiree health benefit plan developed under
 12 IC 5-10-8.5.

13 SECTION 2. IC 6-7-1-12, AS AMENDED BY P.L.218-2007,
 14 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2012]: Sec. 12. (a) The following taxes are imposed, and shall
 16 be collected and paid as provided in this chapter, upon the sale,
 17 exchange, bartering, furnishing, giving away, or otherwise disposing of
 18 cigarettes within the state of Indiana:

- 19 (1) On cigarettes weighing not more than three (3) pounds per
 20 thousand (1,000), a tax at the rate of **four two and nine seven**
 21 **hundred seventy-five thousandths cents** (~~\$0.04975~~) (**\$0.02775**)
 22 per individual cigarette.
 23 (2) On cigarettes weighing more than three (3) pounds per
 24 thousand (1,000), a tax at the rate of **six three and six thousand**
 25 **eight hundred twelve thousandths eighty-one ten-thousandths**
 26 **cents** (~~\$0.06612~~) (**\$0.036881**) per individual cigarette, except that
 27 if any cigarettes weighing more than three (3) pounds per
 28 thousand (1,000) shall be more than six and one-half (6 1/2)
 29 inches in length, they shall be taxable at the rate provided in
 30 subdivision (1), counting each two and three-fourths (2 3/4)
 31 inches (or fraction thereof) as a separate cigarette.

32 (b) Upon all cigarette papers, wrappers, or tubes, made or prepared
 33 for the purpose of making cigarettes, which are sold, exchanged,
 34 bartered, given away, or otherwise disposed of within the state of
 35 Indiana (other than to a manufacturer of cigarettes for use by him in the
 36 manufacture of cigarettes), the following taxes are imposed, and shall
 37 be collected and paid as provided in this chapter:

- 38 (1) On fifty (50) papers or less, a tax of one-half cent (\$0.005).
 39 (2) On more than fifty (50) papers but not more than one hundred
 40 (100) papers, a tax of one cent (\$0.01).
 41 (3) On more than one hundred (100) papers, one-half cent
 42 (\$0.005) for each fifty (50) papers or fractional part thereof.
 43 (4) On tubes, one cent (\$0.01) for each fifty (50) tubes or
 44 fractional part thereof.

45 SECTION 3. IC 6-7-1-17, AS AMENDED BY P.L.131-2008,
 46 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

1 JULY 1, 2012]: Sec. 17. (a) Distributors who hold certificates and
 2 retailers shall be agents of the state in the collection of the taxes
 3 imposed by this chapter and the amount of the tax levied, assessed, and
 4 imposed by this chapter on cigarettes sold, exchanged, bartered,
 5 furnished, given away, or otherwise disposed of by distributors or to
 6 retailers. Distributors who hold certificates shall be agents of the
 7 department to affix the required stamps and shall be entitled to
 8 purchase the stamps from the department at a discount of one and
 9 ~~two-tenths~~ **eight hundredths** cents (~~\$0.012~~) (**\$0.0108**) per individual
 10 package of cigarettes as compensation for their labor and expense.

11 (b) The department may permit distributors who hold certificates
 12 and who are admitted to do business in Indiana to pay for revenue
 13 stamps within thirty (30) days after the date of purchase. However, the
 14 privilege is extended upon the express condition that:

15 (1) except as provided in subsection (c), a bond or letter of credit
 16 satisfactory to the department, in an amount not less than the sales
 17 price of the stamps, is filed with the department;

18 (2) proof of payment is made of all property taxes, excise taxes,
 19 and listed taxes (as defined in IC 6-8.1-1-1) for which any such
 20 distributor may be liable; and

21 (3) payment for the revenue stamps must be made by electronic
 22 funds transfer (as defined in IC 4-8.1-2-7).

23 The bond or letter of credit, conditioned to secure payment for the
 24 stamps, shall be executed by the distributor as principal and by a
 25 corporation duly authorized to engage in business as a surety company
 26 or financial institution in Indiana.

27 (c) If a distributor has at least five (5) consecutive years of good
 28 credit standing with the state, the distributor shall not be required to
 29 post a bond or letter of credit under subsection (b).

30 SECTION 4. IC 6-7-1-28.1, AS AMENDED BY P.L.229-2011,
 31 SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2012]: Sec. 28.1. The taxes, registration fees, fines, or
 33 penalties collected under this chapter shall be deposited in the
 34 following manner:

35 (1) ~~Four Six and twenty-two hundredths~~ **six-tenths** percent
 36 (~~4.22%~~) (**6.6%**) of the money shall be deposited in a fund to be
 37 known as the cigarette tax fund.

38 (2) ~~Six-tenths~~ **Ninety-four hundredths** percent (~~0.6%~~) (**0.94%**)
 39 of the money shall be deposited in a fund to be known as the
 40 mental health centers fund.

41 (3) ~~The following amount~~ **Eighty-three and ninety-seven**
 42 **hundredths percent (83.97%)** of the money shall be deposited
 43 in the state general fund.

44 (A) ~~After June 30, 2011, and before July 1, 2013, sixty and~~
 45 ~~twenty-four hundredths percent (60.24%).~~

46 (B) ~~After June 30, 2013, fifty-four and five-tenths percent~~

- 1 ~~(54.5%)~~;
- 2 (4) **Five Eight** and ~~forty-three~~ **forty-nine** hundredths percent
- 3 ~~(5.43%)~~ **(8.49%)** of the money shall be deposited into the pension
- 4 relief fund established in IC 5-10.3-11.
- 5 (5) ~~Twenty-seven and five hundredths percent (27.05%)~~ of the
- 6 money shall be deposited in the Indiana check-up plan trust fund
- 7 established by IC ~~12-15-44.2-17~~.
- 8 (6) ~~Two and forty-six hundredths percent (2.46%)~~ of the money
- 9 shall be deposited in the state general fund for the purpose of
- 10 paying appropriations for Medicaid—Current Obligations; for
- 11 provider reimbursements.
- 12 (7) The following amount of the money shall be deposited in the
- 13 state retiree health benefit trust fund established by IC ~~5-10-8-8.5~~
- 14 as follows:
- 15 (A) Before July 1, 2011, five and seventy-four hundredths
- 16 percent ~~(5.74%)~~;
- 17 (B) After June 30, 2011, and before July 1, 2013, zero percent
- 18 ~~(0%)~~;
- 19 (C) After June 30, 2013, five and seventy-four hundredths
- 20 percent ~~(5.74%)~~;
- 21 The money in the cigarette tax fund, the mental health centers fund, the
- 22 ~~Indiana check-up plan trust fund~~; or the pension relief fund at the end
- 23 of a fiscal year does not revert to the state general fund. However, if in
- 24 any fiscal year, the amount allocated to a fund under subdivision (1) or
- 25 (2) is less than the amount received in fiscal year 1977, then that fund
- 26 shall be credited with the difference between the amount allocated and
- 27 the amount received in fiscal year 1977, and the allocation for the fiscal
- 28 year to the fund under subdivision (3) shall be reduced by the amount
- 29 of that difference. ~~Money deposited under subdivisions (6) through (7)~~
- 30 ~~may not be used for any purpose other than the purpose stated in the~~
- 31 ~~subdivision.~~
- 32 SECTION 5. IC 6-7-2-7, AS AMENDED BY P.L.172-2011,
- 33 SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 34 JULY 1, 2012]: Sec. 7. (a) A tax is imposed on the distribution of
- 35 tobacco products in Indiana at the rate of:
- 36 (1) ~~twenty-four~~ **eighteen** percent ~~(24%)~~ **(18%)** of the wholesale
- 37 price of tobacco products other than moist snuff; or
- 38 (2) for moist snuff, forty cents (\$0.40) per ounce, and a
- 39 proportionate tax at the same rate on all fractional parts of an
- 40 ounce. If the tax calculated for a fractional part of an ounce
- 41 carried to the third decimal place results in the numeral in the
- 42 third decimal place being greater than four (4), the amount of the
- 43 tax shall be rounded to the next additional cent.
- 44 (b) The distributor of the tobacco products is liable for the tax
- 45 imposed under subsection (a). The tax is imposed at the time the
- 46 distributor:

- 1 (1) brings or causes tobacco products to be brought into Indiana
 2 for distribution;
 3 (2) manufactures tobacco products in Indiana for distribution; or
 4 (3) transports tobacco products to retail dealers in Indiana for
 5 resale by those retail dealers.

6 (c) The Indiana general assembly finds that the tax rate on
 7 smokeless tobacco should reflect the relative risk between such
 8 products and cigarettes.

9 SECTION 6. IC 6-7-2-17, AS AMENDED BY P.L.234-2007,
 10 SECTION 202, IS AMENDED TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2012]: Sec. 17. The department shall deposit
 12 ~~twenty-five percent (25%) of the taxes, registration fees, fines, or~~
 13 ~~penalties all revenue~~ collected under this chapter in the affordable
 14 housing and community development fund established by IC 5-20-4-7.
 15 ~~The remainder of the taxes, registration fees, fines, or penalties~~
 16 ~~collected under this chapter shall be deposited~~ as provided in
 17 IC 6-7-1-28.1."

18 Page 7, between lines 12 and 13, begin a new paragraph and insert:
 19 "SECTION 8. IC 12-7-2-140.5 IS REPEALED [EFFECTIVE UPON
 20 PASSAGE]. Sec. ~~140.5~~. "Plan", for purposes of IC ~~12-15-44.2~~, has the
 21 meaning set forth in IC ~~12-15-44.2-1~~.

22 SECTION 9. IC 12-7-2-144.3 IS REPEALED [EFFECTIVE JULY
 23 1, 2012]. Sec. ~~144.3~~. "Preventative care services", for purposes of
 24 IC ~~12-15-44.2~~, has the meaning set forth in IC ~~12-15-44.2-2~~."

25 Page 7, between lines 15 and 16, begin a new paragraph and insert:
 26 "SECTION 11. IC 12-15-1.3-14, AS ADDED BY P.L.220-2011,
 27 SECTION 264, IS AMENDED TO READ AS FOLLOWS
 28 [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The office shall apply
 29 to the United States Department of Health and Human Services for
 30 approval of a Section 1115 demonstration waiver or a Medicaid state
 31 plan amendment to develop and implement ~~the following:~~ ~~(1)~~ a health
 32 insurance coverage program to cover individuals who meet the
 33 following requirements:

- 34 ~~(A)~~ **(1)** The individual is at least eighteen (18) years of age and
 35 less than sixty-five (65) years of age.
 36 ~~(B)~~ **(2)** The individual is a United States citizen and has been a
 37 resident of Indiana for at least twelve (12) months.
 38 ~~(C)~~ **(3)** The individual has an annual household income of not
 39 more than two hundred percent (200%) of the federal income
 40 poverty level.
 41 ~~(D)~~ **(4)** The individual is not eligible for health insurance
 42 coverage through the individual's employer.
 43 ~~(E)~~ **(5)** The individual has been without health insurance coverage
 44 for at least six (6) months or is without health insurance coverage
 45 because of a change in employment.
 46 ~~(2)~~ A premium assistance program described in IC ~~12-15-44.2-20~~:

1 (b) The office shall include in the waiver application or state plan
2 amendment a request to fund the program in part by using:

- 3 (1) enhanced federal financial participation; and
4 (2) hospital care for the indigent dollars, upper payment limit
5 dollars, or disproportionate share hospital dollars.

6 (c) The office may not implement the waiver or state plan
7 amendment until the office:

- 8 (1) files an affidavit with the governor attesting that the federal
9 waiver or amendment applied for under this section is in effect;
10 and
11 (2) has sufficient funding for the program.

12 The office shall file the affidavit under this subsection not later than
13 five (5) days after the office is notified that the waiver or amendment
14 is approved.

15 (d) The office may adopt rules under IC 4-22-2 necessary to
16 implement this section.

17 (e) This section expires December 31, 2013.

18 SECTION 12. IC 12-15-44.2 IS REPEALED [EFFECTIVE JULY
19 1, 2012]. (Indiana Check-Up Plan)."

20 Page 8, after line 38, begin a new paragraph and insert:

21 "SECTION 19. IC 27-8-10-5.1, AS AMENDED BY P.L.229-2011,
22 SECTION 253, IS AMENDED TO READ AS FOLLOWS
23 [EFFECTIVE JULY 1, 2012]: Sec. 5.1. (a) A person is not eligible for
24 an association policy if the person is eligible for any of the coverage
25 described in subdivisions (1) and (2). A person other than a federally
26 eligible individual may not apply for an association policy unless the
27 person has applied for:

- 28 (1) Medicaid; and
29 (2) coverage under the ~~(A)~~ preexisting condition insurance plan
30 program established by the Secretary of Health and Human
31 Services under Section 1101 of Title I of the federal Patient
32 Protection and Affordable Care Act (P.L. 111-148); ~~and (B)~~
33 ~~Indiana check-up plan under IC 12-15-44.2;~~

34 not more than sixty (60) days before applying for the association
35 policy.

36 (b) Except as provided in subsection (c), a person is not eligible for
37 an association policy if, at the effective date of coverage, the person has
38 or is eligible for coverage under any insurance plan that equals or
39 exceeds the minimum requirements for accident and sickness insurance
40 policies issued in Indiana as set forth in IC 27. However, an offer of
41 coverage described in IC 27-8-5-2.5(e) (expired July 1, 2007, and
42 removed), IC 27-8-5-2.7, IC 27-8-5-19.2(e) (expired July 1, 2007, and
43 repealed), or IC 27-8-5-19.3 does not affect an individual's eligibility
44 for an association policy under this subsection. Coverage under any
45 association policy is in excess of, and may not duplicate, coverage
46 under any other form of health insurance.

1 (c) Except as provided in IC 27-13-16-4 and subsection (a), a person
2 is eligible for an association policy upon a showing that:

3 (1) the person has been rejected by one (1) carrier for coverage
4 under any insurance plan that equals or exceeds the minimum
5 requirements for accident and sickness insurance policies issued
6 in Indiana, as set forth in IC 27, without material underwriting
7 restrictions;

8 (2) an insurer has refused to issue insurance except at a rate
9 exceeding the association plan rate; or

10 (3) the person is a federally eligible individual.

11 For the purposes of this subsection, eligibility for Medicare coverage
12 does not disqualify a person who is less than sixty-five (65) years of
13 age from eligibility for an association policy.

14 (d) Coverage under an association policy terminates as follows:

15 (1) On the first date on which an insured is no longer a resident of
16 Indiana.

17 (2) On the date on which an insured requests cancellation of the
18 association policy.

19 (3) On the date of the death of an insured.

20 (4) At the end of the policy period for which the premium has
21 been paid.

22 (5) On the first date on which the insured no longer meets the
23 eligibility requirements under this section.

24 (e) An association policy must provide that coverage of a dependent
25 unmarried child terminates when the child becomes nineteen (19) years
26 of age (or twenty-five (25) years of age if the child is enrolled full time
27 in an accredited educational institution). The policy must also provide
28 in substance that attainment of the limiting age does not operate to
29 terminate a dependent unmarried child's coverage while the dependent
30 is and continues to be both:

31 (1) incapable of self-sustaining employment by reason of mental
32 retardation or mental or physical disability; and

33 (2) chiefly dependent upon the person in whose name the contract
34 is issued for support and maintenance.

35 However, proof of such incapacity and dependency must be furnished
36 to the carrier within one hundred twenty (120) days of the child's
37 attainment of the limiting age, and subsequently as may be required by
38 the carrier, but not more frequently than annually after the two (2) year
39 period following the child's attainment of the limiting age.

40 (f) An association policy that provides coverage for a family
41 member of the person in whose name the contract is issued must, as to
42 the family member's coverage, also provide that the health insurance
43 benefits applicable for children are payable with respect to a newly
44 born child of the person in whose name the contract is issued from the
45 moment of birth. The coverage for newly born children must consist of
46 coverage of injury or illness, including the necessary care and treatment

1 of medically diagnosed congenital defects and birth abnormalities. If
 2 payment of a specific premium is required to provide coverage for the
 3 child, the contract may require that notification of the birth of a child
 4 and payment of the required premium must be furnished to the carrier
 5 within thirty-one (31) days after the date of birth in order to have the
 6 coverage continued beyond the thirty-one (31) day period.

7 (g) Except as provided in subsection (h), an association policy may
 8 contain provisions under which coverage is excluded during a period
 9 of three (3) months following the effective date of coverage as to a
 10 given covered individual for preexisting conditions, as long as medical
 11 advice or treatment was recommended or received within a period of
 12 three (3) months before the effective date of coverage. This subsection
 13 may not be construed to prohibit preexisting condition provisions in an
 14 insurance policy that are more favorable to the insured.

15 (h) If a person applies for an association policy within six (6)
 16 months after termination of the person's coverage under a health
 17 insurance arrangement and the person meets the eligibility
 18 requirements of subsection (c), then an association policy may not
 19 contain provisions under which:

20 (1) coverage as to a given individual is delayed to a date after the
 21 effective date or excluded from the policy; or

22 (2) coverage as to a given condition is denied;

23 on the basis of a preexisting health condition. This subsection may not
 24 be construed to prohibit preexisting condition provisions in an
 25 insurance policy that are more favorable to the insured.

26 (i) For purposes of this section, coverage under a health insurance
 27 arrangement includes, but is not limited to, coverage pursuant to the
 28 Consolidated Omnibus Budget Reconciliation Act of 1985.

29 SECTION 20. IC 27-8-10.1 IS REPEALED [EFFECTIVE JULY 1,
 30 2012]. (High Risk Indiana Check-Up Plan Participants).

31 SECTION 21. [EFFECTIVE UPON PASSAGE] (a) **As used in this**
 32 **SECTION, "plan" refers to:**

33 (1) **the Indiana check-up plan established by IC 12-15-44.2-3**
 34 **(before its repeal by this act); or**

35 (2) **a health insurance plan similar to the plan specified in**
 36 **subdivision (1) that the state continues to operate under a**
 37 **federal waiver after the repeal of IC 12-15-44.2 by this act.**

38 (b) **The office of the secretary of family and social services shall**
 39 **do the following concerning termination of the plan:**

40 (1) **Submit a request to the United States Department of**
 41 **Health and Human Services to terminate the plan waiver.**

42 (2) **Develop and implement a procedure for the orderly**
 43 **termination of the plan.**

44 (c) **Money held in the Indiana check-up plan trust fund**
 45 **established under IC 12-15-44.2-17 (before its repeal by this act)**
 46 **shall be paid into the Medicaid account of the state general fund**

1 promptly after the repeal of IC 12-15-44.2-17 by this act.
2 (d) The amount transferred to the Medicaid account of the state
3 general fund under subsection (c) is appropriated to the office of
4 the secretary of family and social services from the Medicaid
5 account of the state general fund for its use in paying claims under
6 the plan that remain unpaid on or accrue after the effective date of
7 this act beginning on the effective date of this act and ending June
8 30, 2013.
9 (e) This SECTION expires June 30, 2013.
10 SECTION 22. An emergency is declared for this act."
11 Renumber all SECTIONS consecutively.
(Reference is to EHB 1149 as printed February 24, 2012.)

Senator DELPH