

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1483 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 5-28-36 IS ADDED TO THE INDIANA CODE
4 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2013]:
6 **Chapter 36. Drug Testing Program**
7 **Sec. 1. This chapter applies to an individual who:**
8 **(1) is the chief executive officer of an organization that is**
9 **eligible to receive TANO assistance; and**
10 **(2) is at least eighteen (18) years of age.**
11 **Sec. 2. The following definitions apply throughout this chapter:**
12 **(1) "TANO" means temporary assistance to needy**
13 **organizations, which includes:**
14 **(A) a tax credit under IC 6-3.1;**
15 **(B) a grant under this article;**
16 **(C) a loan under this article; or**
17 **(D) a loan guarantee under this article;**
18 **that requires the corporation's approval before the tax credit,**
19 **grant, loan, or loan guarantee may be claimed or received.**
20 **(2) "Chief executive officer" means:**
21 **(A) the president of a corporation;**
22 **(B) a manager of a limited liability company;**
23 **(C) a managing partner of a partnership; or**
24 **(D) in the case of an entity not described in clauses (A)**
25 **through (C), an individual having executive powers with**
26 **respect to the affairs of the entity.**
27 **Sec. 3. (a) The board shall develop and establish a program in**
28 **accordance with this chapter to test for the illegal use of a**
29 **controlled substance by an individual described in section 1 of this**
30 **chapter.**

1 (b) The board shall implement a program established in
2 accordance with this chapter not later than July 1, 2014.

3 **Sec. 4.** An individual described in section 1 of this chapter shall
4 take a substance abuse subtle screening inventory test
5 administered in written or electronic form by the corporation.

6 **Sec. 5.** The corporation shall provide the following information
7 in writing to an individual described in section 1 of this chapter at
8 the time the individual, or the organization for which the
9 individual serves as chief executive officer, applies for TANO
10 assistance:

11 (1) The individual is required to take a written or electronic
12 substance abuse subtle screening inventory test.

13 (2) The individual may be subject to random drug testing
14 based on the results of the test described in subdivision (1).

15 (3) The individual may be subject to drug testing if the
16 corporation believes, based on reasonable suspicion as set
17 forth in section 6 of this chapter, that the individual is
18 engaged in the illegal use of a controlled substance.

19 (4) If the individual tests positive on a drug test administered
20 under this chapter, the individual's organization may be
21 ineligible for TANO assistance.

22 (5) If the individual tests positive on a drug test administered
23 under this chapter, the amount of the TANO assistance that
24 the individual's organization receives in the future will be
25 reduced by the cost of the drug test if the organization
26 continues to receive TANO assistance.

27 (6) If the individual tests positive on a drug test administered
28 under this chapter, the TANO assistance that the individual's
29 organization receives must be reduced by the amount of the
30 cost of any subsequent drug test the individual is required to
31 undergo, if the individual's organization continues to receive
32 TANO assistance, regardless of whether the individual tests
33 positive or tests negative on the subsequent drug test.

34 **Sec. 6. (a)** The corporation is considered to have reasonable
35 suspicion to believe that an individual is engaged in the illegal use
36 of a controlled substance if one (1) or more of the following apply:

37 (1) The individual has been charged with an offense under
38 IC 35-48 (controlled substances).

39 (2) The results of the substance abuse subtle screening
40 inventory test indicate that the individual is a risk for the
41 illegal use of a controlled substance.

42 (3) The individual has previously failed a drug test
43 administered under this chapter.

44 (b) If the corporation has knowledge that an individual has been
45 formally charged with an offense described in subsection (a)(1), the
46 corporation shall administer a drug test to the individual.

47 (c) If the corporation has reasonable suspicion to believe from

1 the results of a substance abuse subtle screening inventory test that
 2 an individual is engaged in the illegal use of a controlled substance,
 3 the individual shall be placed in a pool of individuals who are
 4 subject to drug testing described in section 7 of this chapter.

5 (d) If the corporation has reasonable suspicion to believe that an
 6 individual is engaged in the illegal use of a controlled substance as
 7 the result of failing a drug test administered under this chapter, the
 8 individual shall be placed in a pool of individuals who are subject
 9 to random drug testing as described in section 8 of this chapter.

10 Sec. 7. The corporation shall administer a drug test to at least
 11 fifty percent (50%) of the pool of individuals described in section
 12 6(c) of this chapter. An individual may not be tested more than
 13 once under this section.

14 Sec. 8. The corporation shall administer random drug tests to
 15 fifty percent (50%) of the pool of individuals described in section
 16 6(d) of this chapter each month.

17 Sec. 9. The corporation shall provide a list of drug abuse
 18 treatment programs to any individual who tests positive under this
 19 chapter.

20 Sec. 10. (a) If an individual tests positive under this chapter and
 21 provides evidence that the individual is participating in a drug
 22 abuse treatment program, the individual's organization shall
 23 continue to receive TANO assistance. However, the corporation
 24 shall administer a drug test to the individual regularly at intervals
 25 of at least twenty (20) days and not more than thirty (30) days until
 26 the individual tests negative in two (2) consecutive drug tests.

27 (b) If an individual does not test negative in two (2) consecutive
 28 drug tests as described in subsection (a) not later than four (4)
 29 months after the date the corporation begins testing the individual
 30 regularly under subsection (a), the individual's organization is
 31 ineligible to receive TANO assistance for three (3) months from the
 32 date the corporation determines that the individual is unable to test
 33 negative on two (2) consecutive drug tests as described in
 34 subsection (a).

35 (c) If an individual:

- 36 (1) tests positive under this chapter; and
- 37 (2) fails to provide, not later than thirty (30) days after the
 38 date the individual tests positive, evidence that the individual
 39 is participating in or on a waiting list to participate in a drug
 40 abuse treatment program;

41 the individual's organization is ineligible to receive TANO
 42 assistance for three (3) months after the thirty (30) day period
 43 described in subdivision (2).

44 (d) An individual who is ineligible under subsection (b) or (c)
 45 may reapply for TANO assistance after the applicable three (3)
 46 month ineligibility period. Upon reapplying, the individual must
 47 test negative on a drug test before the individual's organization

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may receive TANO assistance.

(e) If an individual described in subsection (d) tests positive on the drug test administered for the TANO reapplication process, the following apply:

(1) Except as provided in subdivision (2), the individual's organization is ineligible to receive TANO assistance.

(2) After becoming ineligible under subdivision (1), an individual may establish eligibility to receive TANO, if the individual satisfies the following requirements:

(A) At the time the individual reapplies to receive TANO assistance for the individual's organization, the individual provides evidence that the individual has completed a drug treatment program.

(B) The individual tests negative in two (2) consecutive drug tests. The corporation shall administer the first drug test to the individual at the time of the TANO reapplication and the second drug test at least twenty (20) days and not more than thirty (30) days after the date of the first drug test.

Sec. 11. (a) An individual:

(1) who reapplies for TANO assistance under section 10(d) of this chapter; and

(2) whose organization is eligible to receive TANO assistance; is subject to random drug testing as described in subsection (b) for as long as the individual's organization receives TANO assistance.

(b) The corporation shall administer random drug tests to fifty percent (50%) of the pool of individuals described in subsection (a) each month.

(c) Section 10 of this chapter applies to an individual described in subsection (a) who tests positive on a subsequent drug test administered in accordance with this section.

Sec. 12. If an individual refuses to take a substance abuse subtitle screening inventory test or drug test under this chapter, the individual's organization is ineligible to receive TANO assistance.

Sec. 13. (a) Except as provided in subsections (b) and (c), the corporation shall pay the costs of a drug test administered under this chapter.

(b) If an individual tests positive on a drug test administered under this chapter, the corporation shall reduce the amount of TANO assistance the organization receives by the amount of the cost of the drug test from the next claim or distribution of TANO assistance the individual's organization receives.

(c) If an individual tests positive on a drug test administered under this chapter, the corporation shall withhold the amount of the cost of any subsequent drug tests that the individual is required to undergo from the next claim or distribution of TANO assistance by or to the individual's organization.

- 1 **Sec. 14. (a) This chapter is subject to the administrative hearing**
- 2 **procedures under IC 4-21.5.**
- 3 **(b) The program under this chapter must include an appeals**
- 4 **process for individuals.**
- 5 **Sec. 15. A drug test administered under the program must be**
- 6 **performed by a:**
- 7 **(1) SAMHSA (as defined in IC 22-10-15-3) clinical laboratory;**
- 8 **or**
- 9 **(2) clinical laboratory holding a federal Clinical Laboratory**
- 10 **Improvement Act (CLIA) certificate or a CLIA certificate of**
- 11 **accreditation.**
- 12 **Sec. 16. The corporation's records concerning the results of a**
- 13 **drug test under this article may not be admitted against a**
- 14 **defendant in a criminal proceeding.**
- 15 **Sec. 17. The corporation shall collect data to assess and ensure**
- 16 **that there is no discrimination based on race, ethnicity, or sex**
- 17 **regarding the pool of individuals who are drug tested under the**
- 18 **program established under this chapter.**
- 19 **Sec. 18. The corporation may adopt rules under IC 4-22-2**
- 20 **necessary to implement this article."**
- 21 Renumber all SECTIONS consecutively.
 (Reference is to EHB as printed April 5, 2013.)

Senator TALLIAN