

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6023**  
**BILL NUMBER:** HB 1001

**NOTE PREPARED:** Jun 19, 2009  
**BILL AMENDED:** Jun 19, 2009

**SUBJECT:** Budget Bill.

**FIRST AUTHOR:** Rep. Crawford  
**FIRST SPONSOR:** Sen. Kenley

**BILL STATUS:** CR Adopted - 2<sup>nd</sup> House

**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
 **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) *State Appropriations:* This bill makes appropriations for the operation of state government and the delivery of Medicaid and other services, authorizes capital projects, specifies a school funding formula, and makes other changes concerning taxation and state and local finance.

**Higher Education Provisions:**

This bill provides that certain funds distributed to state universities under the provisions of the American Recovery and Reinvestment Act of 2009 (ARRA) related to restoring state support for higher education shall be treated as a special, one-time distribution, and 50% of the funds shall be used only for general repair and rehabilitation of facilities for instruction or research or for repair and rehabilitation of dormitories or other student housing.

The bill provides that if a state educational institution sets tuition and mandatory fee rates higher than the nonbinding tuition and mandatory fee increase targets set by the Commission for Higher Education, the state educational institution shall appear at a public meeting of the State Budget Committee. The bill increases the maximum amount of bonds that may be outstanding for a state educational institution's qualified energy savings projects from \$10,000,000 to \$15,000,000 per campus and requires the savings in excess of debt payments to be used to fund basic research for the Indiana Innovation Alliance. The bill provides that for purposes of the tuition and fee exemption for Purple Heart recipients: (1) an amount may be paid for a student's tuition and regularly assessed fees only to the extent that the student's tuition and regularly assessed fees exceed any nonstate tuition-based gift aid (excluding federal Pell Grants); and (2) a student may not receive state aid from any source or fund for more than a total of eight semesters.

The bill provides that the State Student Assistance Commission (SSACI) may transfer funds among Freedom of Choice awards, higher education awards, and Twenty-first Century awards to ensure maximum use of the funds and the awards.

*K-12 Provisions:*

This bill specifies that the Budget Agency shall calculate whether tax collections for the state fiscal year ending June 30, 2010, exceed the May 27, 2009, adjusted state revenue forecast for that state fiscal year. It provides that if actual receipts for the state fiscal year ending June 30, 2010, exceed the adjusted state revenue forecast, 50% of the excess revenue is appropriated to the Department of Education (DOE) to be used as a special one-time tuition support distribution.

The bill adds requirements concerning money available under the ARRA for: (1) grants to local education agencies based on Title I of the Elementary and Secondary Education Act of 1965; and (2) special education funding.

The bill delays the implementation of fiscal year budgeting for school corporations. It also provides that a school corporation is to receive its proportionate share of any delinquent property taxes paid that are attributable to a year in which the school corporation did not receive 100% of its general fund distribution because of unpaid taxes.

This bill also provides that the State Personnel Department shall allow a school corporation to elect to provide coverage of health care services for active and retired employees of the school corporation under a state employee health plan. It provides that if a school corporation does not elect to provide coverage of health care services under a state employee health plan and the cost to the school corporation is greater than the amount that would have been paid if the school corporation had elected coverage, then for contracts entered into or renewed after 2010 to provide coverage for health care services, the school corporation's employees shall pay the difference and the school corporation may not pay the difference on behalf of the school corporation's employees.

The bill provides that a charter school or conversion charter school that has received an advance for operational costs from the Common School Fund does not have to make principal or interest payments during the state fiscal years beginning July 1, 2009, and July 1, 2010. The bill provides that Senator David C. Ford Educational Technology Fund may be used for a school technology program developed by the DOE. It also provides that a charter school may receive technology funds.

This bill amends the circuit breaker levy replacement grant for school corporations. The bill also requires a school corporation to notify a teacher that the governing body will consider nonrenewal of the teacher's contract for the next school term before June 1 in an even-numbered year or the later of June 15 or the date a budget act is enacted by the General Assembly in an odd-numbered year. It also provides that a school corporation's expenditures from its capital projects fund for utility services or property or casualty insurance may not in 2010 and in 2011 exceed 3.5% of the school corporation's 2005 calendar year distribution.

The bill requires a school corporation with an ADM on June 30, 2009, of less than 100 students to reorganize by consolidating with an adjacent school corporation under the school consolidation provisions.

It requires the DOE to develop a charter school facilities incentive grants program before January 1, 2010,

using priority criteria set forth in federal law. It also provides that the DOE shall establish a pilot program to provide funding for a statewide total of up to 1,000 students who attend virtual charter schools in the school year ending in 2010 and 2,000 students who attend virtual charter schools in the school year ending in 2011. The bill specifies that the pilot program shall focus on children who have medical disabilities or circumstances that prevent them from attending school or for whom a virtual charter school is a better alternative than a traditional school. The bill provides that the funding amount is the virtual charter school's ADM multiplied by 80% of the statewide average basic tuition support. The bill requires the DOE to adopt rules to govern the operation of virtual charter schools.

This bill provides that the Brown County School Corporation is not required to make principal or interest payments during the state fiscal years beginning July 1, 2009, and July 1, 2010, on any loan received by the school corporation from the state Rainy Day Fund.

The bill authorizes a city in which a riverboat is docked or located or gambling games are located to enter into one or more agreements or leases with a school corporation or another public or private entity to provide for the construction or renovation of a school building that will be used by the school corporation.

*State Tax Provisions-* This bill makes various changes in tax law, including Sales Tax exemptions for certain equipment involved in providing video services or monitoring blood glucose, an Income Tax deduction for solar-powered roof fans, income taxation of certain foreign real estate investment trusts, the Coal Gasification Technology Investment Tax Credit, Gasoline Tax relief for certain diverted shipments, certain off-road vehicles under the Motor Carrier Fuel Tax statute, and road tractors under the Commercial Vehicle Excise Tax.

*Sales Tax Provisions:* This bill makes changes to bring Indiana in conformance with the Streamlined Sales and Use Tax Agreement as amended through September 5, 2008. The bill updates the definition of "gross retail income" to coincide with the definition of "sales price" and provides relief for retail merchants if there is a change in the Sales and Use Tax rate. The bill also makes permanent the sourcing rule for floral deliveries providing that a sale is sourced to the location of the florist where the order originated when the sale involves one florist taking an order and transferring the order to another florist for delivery to the final recipient. It also provides that the sale of Internet access service or certain ancillary telecommunication services are sourced to the customer's place of primary use.

The bill requires refiners, terminal operators, and qualified distributors to remit prepaid State Gross Retail taxes through the department's online tax filing system. It requires the Department of State Revenue (DOR) to determine a new Sales Tax prepayment rate on gasoline every three months. It also allows the DOR, subject to Office of Management and Budget approval, to make a new prepayment rate determination if the price of gasoline has changed by at least 25% since the most recent determination. It also uses 80% instead of 90% of the estimated tax liability in making the determination.

*Income Tax Provisions:* This bill updates references to the Internal Revenue Code and requires certain adjustments for the purposes of calculating adjusted gross income (AGI).

The bill provides that a taxpayer is entitled to a state tax credit for a contribution to a scholarship granting organization and provides that the contribution must be used by the scholarship granting organization in a scholarship program to provide scholarships to eligible students. It limits the total amount of tax credits that may be awarded to \$5,000,000 in any state fiscal year.

This bill extends the Hoosier Business Investment Tax Credit through 2013. For purposes of the tax credit for contributions to the College Choice 529 education savings plan: (1) defines "contribution" to exclude rollovers from other 529 savings plans; and (2) excludes value added to the account through earnings of bonus points.

The bill provides that an individual may claim a deduction for state Income Tax purposes for property taxes that: (1) were imposed on the individual's principal place of residence for the March 1, 2007, assessment date or the January 15, 2008, assessment date; (2) are due after December 31, 2008; and (3) are paid in 2009 on or before the due date for the property taxes.

This bill includes vehicles that operate on biodiesel or ultra-low sulfur diesel fuel for purposes of the Hoosier Alternative Fuel Vehicle Manufacturer Income Tax Credit.

It specifies that for research expense incurred after December 31, 2009, a taxpayer may choose to have the amount of the Research Expense Tax Credit determined under the existing calculation or under an alternative calculation providing the amount of the credit is equal to 10% of the part of the taxpayer's Indiana qualified research expense for the year that exceeds 50% of the taxpayer's average Indiana qualified research expense for the preceding three years.

The bill also adds a definition of "pass through entity" to the income tax statutes and provides that income from a pass through entity shall be characterized in a manner consistent with the income's characterization for federal income tax purposes and attributed to Indiana as if the person, corporation, or pass through entity that received the income had directly engaged in the income producing activity. It provides that if this change results in additional income of a taxpayer being subject to taxation in Indiana for taxable years beginning after December 31, 2004, and before January 1, 2009, the taxpayer is entitled to a credit against Indiana AGI taxes equal to the tax previously paid to any other state on that income.

The bill provides that the state tax credit for media production expenditures may not be awarded for an expenditure made after June 30, 2009. It also repeals the sales tax exemption for property acquired for direct use in a qualified media production.

The bill also provides a refund of gross income taxes erroneously paid for 2003 and 2004 by a town if the town also paid the Utilities Receipts Tax for the same year.

*Other Department of Revenue Provisions:* The bill requires all new withholding tax registrants to file returns and remit the withholding taxes electronically through the department's online tax filing program. It also requires new retail merchants to file returns and remit sales tax electronically.

The bill provides that after December 31, 2010, the DOR in cooperation with the Department of Local Government Finance (DLGF) and the Budget Agency shall provide data annually that: (1) identifies the total number of individual taxpayers that live within a particular incorporated city or town; (2) identifies the total individual adjusted gross income of those taxpayers; and (3) includes certain other information.

The bill also allows the DOR to require a person who is paying outstanding gross retail tax or withholding tax liability using periodic payments to make the periodic payment by electronic funds transfer through an automatic withdrawal from the person's account at a financial institution.

It amends the county adjusted gross income tax (CAGIT), county option income tax (COIT), and county

economic development income tax (CEDIT) statutes to provide that the Budget Agency (rather than the DOR) certifies the revenue distribution to counties.

*Miscellaneous Tax Provisions:* This bill adds the Utility Receipts Tax to the taxes for which a six-year, rather than a three-year, limit on assessment applies if gross receipts are understated by at least 25%. The bill makes various changes in tax procedure and administration, including changes concerning provisional property tax bills, appeals of assessments of certain industrial facilities, school assessment ratio studies, sales tax on gasoline, the sales tax exemption for leased aircraft, electronic filing; tax withholding, inheritance tax liens and interest accrual, notice of revoked retail merchant certificates, motor fuel tax procedures, and DOR refunds.

*Property Tax, Budget, and Miscellaneous Tax Provisions-*

*Reassessment Delay:* This bill delays the beginning of the general reassessment until 2010.

*Bond Issues:* The bill specifies the maximum term for certain bonds and loans.

*Trending Catch-Up:* The bill allows the DLGF to specify trending values for an area if the county assessor is more than six months late in providing assessed values to the county auditor.

*Exemption Filing:* This bill eliminates the requirement that a property tax exemption application be filed every two years for certain property owned, occupied, and used by a person for educational, literary, scientific, religious, or charitable purposes. The bill provides that a change in ownership of tangible property that continues to be used for an exempt purpose does not terminate an exemption.

*Mobile Homes:* The bill specifies when a mobile or manufactured home may be treated as inventory, and permits the waiver of property taxes on an abandoned mobile or manufactured home.

*Referenda:* The bill makes changes to the law governing referenda on bonds and leases for controlled projects. It changes deadlines for review of budgets, levies, and tax rates.

*Utility Assessments:* It provides that a public utility company's tangible personal property that is locally assessed as fixed property is instead assessed as distributable property.

*Sales Disclosure:* The bill exempts public utility and governmental easement documents from the property sales disclosure filing requirement. It also allows the assessment training and administration fund to be used for data base management expenses.

*Fire Protection Territories:* The bill provides that levy limits do not apply to a civil taxing unit in the first year in which the civil taxing unit becomes a participating unit in a fire protection territory, but requires such a civil taxing unit to submit its proposed budget, proposed property tax levy, and proposed property tax rate for the fire protection territory to DLGF for approval. It specifies that participating units in a fire protection territory may agree to change the provider unit of the territory.

*Assessment Appeals:* The bill provides that if a notice of review of a property tax assessment is filed for an assessment that increased by more than 10% over the assessed value for the preceding assessment date, the assessor making the assessment has the burden of proving that the assessment is correct.

*MRDD Levies:* The bill establishes procedures for determining the amount of a levy for a community mental health center (CMHC) or a community mental retardation and other developmental disabilities (CMRDD) center that is exempt from levy limitations.

*Control Boards:* This bill eliminates the local government tax control board and the school property tax control board. It removes the expiration date for the county boards of tax adjustment.

*Marion County TIF:* This bill changes the tax increment replacement amount for a tax increment financing (TIF) district in Marion County so that the personal property increment may be used regarding obligations issued before May 8, 1989.

*Maximum Levy Adjustment:* The bill legalizes the method used by the DLGF to reduce the 2009 maximum permissible ad valorem property tax levy of taxing units that paid benefits to members of the "old" police and firefighter pension funds.

*Township Fire Protection:* This bill regulates fees imposed by a local firefighting unit. It also allows townships to provide fire protection or emergency services within a municipality that lies at least in part in the township and does not have a full-time, paid fire department without contracts if both legislative bodies approve. (Current law requires a municipality to lie entirely within the township to permit the arrangement.)

*SARS:* It repeals a provision requiring the calculation of a state average assessment ratio.

*Local Option Income Tax:* This bill requires a county income tax council to hold at least one public meeting in each odd-numbered year at which the council discusses whether the county option income tax rate should be adjusted. It allows COIT revenue to be used to pay certain redevelopment bonds.

*Public Work Project Financing:* The bill allows a political subdivision to borrow money from a financial institution for a public works project for ten (rather than six) years.

*Homestead Credits:* This bill provides for two semiannual installments of revenue replacing homestead credits granted to taxpayers in 2009 and 2010.

The bill establishes a credit for property taxes payable in 2010 for homesteads owned by residential trusts that did not receive the standard deduction for taxes payable in 2009 and provides that the amount of the credit is the remainder of the 2009 taxes paid minus the tax liability that would have applied if the trust had been eligible for the standard deduction.

*Homestead Property Defined:* It changes the definition of "homestead" in the property tax law to include, for assessments after 2009, a deck attached to the dwelling, a patio adjacent to the dwelling, or a swimming pool or a gazebo assessed as real property that is located on the one acre of real estate that is part of the homestead.

*Property Tax Exemptions:* The bill also extends the time in which certain nonprofit entities may file a property tax exemption application.

*Fire Protection District:* The bill allows borrowing by a fire protection district that was initially established in 2006, has experienced significant revenue shortfalls due to cumulative mathematical errors in the calculation of its maximum permissible property tax levies in 2007 and 2008, and may experience a

significant revenue shortfall in 2009 and 2010 requiring the district to seek funds in addition to the amounts certified for the district's current budget to provide fire protection to district residents.

*Child Welfare Surpluses:* The bill permits the balance of a county's family and children's fund or county's children's psychiatric residential treatment services fund to be transferred to the county rainy day fund. It also permits St. Joseph County to use the balance of a county's family and children's fund or county's children's psychiatric residential treatment services fund for purposes other than property tax relief.

*Local Option Income Tax:* The bill allows local option income taxes for a levy freeze, public safety, or property tax relief to be adopted in 2009 at any time before November 1, 2009 (rather than before August 1, 2009).

*Commercial Vehicle Excise Tax (CVET):* The bill makes changes concerning CVET distributions.

*Major Bridge:* The bill allows money in a major bridge fund in Allen County to be used for construction and maintenance for other bridges and indicates that the county is responsible for maintaining bridges within the limits of a city in Allen County as long as the county levies a tax for the major bridge fund.

*LaPorte County:* The bill specifies that for the March 1, 2006, assessment date for property taxes first due and payable in 2007 in LaPorte County, the certified net assessed values submitted by the LaPorte County auditor to DLGF is considered proper, valid, and legally sufficient for purposes of finalizing budgets, rates, and levies and shall serve as the basis for the 2007 reconciliation tax bill.

*Application of Foreclosure Proceeds:* It restores language removed by HEA 1358-2009 concerning application of foreclosure proceeds to delinquent property taxes.

*Rainy Day Fund Loans:* The bill allows a taxing unit that experiences a property tax shortfall with respect to taxes payable in 2009 or 2010 resulting from the bankruptcy of a motor vehicle transmission manufacturer to obtain a loan from the Rainy Day Fund.

*Levy Appeals:* The bill provides that for purposes of calculating whether a unit may be eligible for the levy appeal for assessed value growth, the amount of the supplemental standard deduction that applied for 2008 assessments is added back to assessed value.

*Miscellaneous Provisions:*

*Capital Improvement Board (CIB) Provisions:* This bill permits the Marion County City-County Council to increase: (1) the county supplemental auto rental excise tax by 2% (4% to 6%); (2) the county admissions tax by 4% (6% to 10%); and (3) the county innkeeper's tax by 1% (9% to 10%). The bill requires Marion County to adopt the increases before September 1, 2009. It reduces the number of appointments to the Marion County CIB by the county commissioners from two members to one member and provides that the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Governor shall each make one appointment to the CIB. It also provides that the terms of the members of the CIB expire January 15, 2010, and new members must be appointed to serve terms beginning January 15, 2010.

The bill deposits the revenue from the county tax increases in a new sports and convention facilities operating fund for the CIB and restricts the use of the new operating fund to paying usual and customary

operating expenses with respect to capital improvements operated by the CIB. It allows for an addition to the Marion County Professional Sports Development Area (PSDA) to include the hotels in an area bounded by Washington, Illinois, and Maryland streets and provides for state sales taxes and state and local income taxes from the additional area to be captured for the CIB (up to \$8,000,000 per year). It allows the captured taxes to be deposited in the new sports and convention facilities operating fund for the CIB if the Budget Director determines that the additional county excise taxes are in effect on January 1 of a year (September 1 for 2009).

The bill requires the CIB to submit its operating and capital budget for review, approval, or rejection to the Marion County City-County Council and requires the CIB to present a long-range financial plan to the city-county council before January 1, 2010. The bill requires the State Board of Accounts (SBOA) to do a financial and compliance audit annually of the CIB and requires the CIB to submit the SBOA reports to the Marion County City-County Council. The bill requires the Marion County City-County Council to review the SBOA reports at a public hearing. It also requires the city-county council to approve the issuance of revenue and general obligation bonds by the CIB and removes the Marion County Board of Commissioners from the review and approval of general obligation bonds and adds a requirement for the mayor's approval. It makes corresponding changes.

*Westfield Admission Tax:* The bill permits the city of Westfield to impose an admissions tax for paid admissions to a family-oriented sports and recreational complex in the city and provides that the admissions tax rate is 5% of the price of admission. It exempts certain events and specifies the uses of the tax revenue.

*State Retiree Health Benefit Trust Fund:* The bill reallocates the Cigarette Tax revenue that is used to offset the Employer Health Plan Tax Credit to a new state retiree health benefit trust fund. It also reduces the annual contribution that must be made to the retirement medical benefits accounts for state employees by 10%.

*Division of Child Services (DCS) and Ombudsman Provisions:* This bill establishes the Office of Department of Child Services Ombudsman within the Department of Administration and provides that the ombudsman is appointed by the Governor, serves at the pleasure of the Governor, and may employ experts and other employees to carry out the duties of the office.

The bill provides that certain parental reimbursement obligations shall be paid directly to DCS and not to the local court clerk so long as the child in need of services case, juvenile delinquency case, or status offense case is open. It also specifies certain requirements for contracts between DCS regarding collection of parental reimbursement amounts. The bill also changes the membership of the Statewide Independent Living Council.

*Special Volume Cap Provisions:* The bill provides that any special volume cap regarding bonds issued under a federal act providing the cap is in addition to the volume cap under Section 146 of the Internal Revenue Code.

*Ohio River Bridges Project Commission:* The bill establishes the Ohio River Bridges Project Commission.

*Wabash County Annexation:* The bill adds Wabash County to the counties that may annex noncontiguous property to be used as an industrial park.

*Family and Social Services (FSSA) Expiration:* The bill extends the expiration date of FSSA, the Office of Medicaid Policy and Planning (OMPP), the statutes concerning directors of divisions within FSSA, and

certain advisory committees under the FSSA statutes.

*Board of Pharmacy Secure Prescription Program:* This bill also provides that the Governor may direct the Indiana Board of Pharmacy to develop a prescription drug program that includes a standard format for an official tamper-resistant prescription drug form for prescriptions.

*Medicaid Health Facility Quality Assessment Fee (QAF):* This bill removes provisions limiting the health facilities subject to the Quality Assessment Fee based on the health facility's Medicaid utilization rate and annual Medicaid revenue. It eliminates the exemption from the QAF for health facilities that receive only Medicare revenues. It also provides an exemption for hospital-based health facilities and eliminates the role of the DOR in collecting quality assessment fees. The bill specifies the percentage distribution of money collected from the QAF depending on whether the state is receiving an adjusted federal medical assistance percentage by the ARRA. It also extends the health facility QAF until August 1, 2011.

*Criminal Code Evaluation Commission:* The bill also establishes the Criminal Code Evaluation Commission.

*Studies:* The bill establishes the Gaming Study Committee and specifies certain study topics. It requires a report and any recommendations to be submitted to the Legislative Council before November 1, 2009. The bill also requires the Commission on State Tax and Financing Policy to study various topics. It also requires the Indiana Finance Authority to study the mission, organization, and management structure of the I-Light Fiber Optic Network and submit a report to the Governor and the Legislative Council. The bill requires the Commission for Higher Education with the assistance of SSACI to study the funding of college scholarship programs provided by SSACI and the state's public universities. The bill also requires the Budget Agency to review the costs of providing employee health, vision, and dental insurance for state employees and employees of school corporations and public universities.

*Procurement by Political Subdivisions:* This bill requires a political subdivision to consult at least two purchasing cooperatives (if at least two purchasing cooperatives exist) if the purchase costs are at least \$50,000. It authorizes the Department of Administration to adopt rules to regulate such purchases by political subdivisions and provides that the DOA may establish written policies for such purchases by political subdivisions to ensure that political subdivisions secure the best available price and quality.

*Other Miscellaneous Provisions:* The bill authorizes a local unit issuing debt to provide for a repayment schedule that will result in the same or a lower amount of interest being paid on obligations that would be issued using nearly equal payment amounts.

*Green Industries Fund:* It establishes the Green Industries Fund to provide grants and loans to Indiana manufacturers.

*Ocean-Going Containers:* It also provides that the total gross weight with load of a vehicle or combination of vehicles transporting an ocean-going container may not exceed 95,000 pounds. (The current weight limit may not exceed 90,000 pounds.)

*Department of Workforce Development Release of Data:* The bill requires the Department of Workforce Development to release certain data to the Legislative Services Agency for the purpose of forecasting tax revenues.

*Licensing Creditors and Mortgage Loan Originators:* The bill provides that the Department of Financial

Institutions may adopt emergency rules to provide for a system of licensing creditors and mortgage loan originators that meets the requirements of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

*References to Law:* The bill specifies that a reference to a federal law in the Uniform Consumer Credit Code is a reference to the law in effect December 31, 2008. It also specifies that a reference to a federal law or federal regulation in Title 28 of the Indiana Code is a reference to the law or regulation in effect December 31, 2008.

*Waiving of Compensation:* The bill allows an elected county, city, town, or township officer to waive some or all of the elected officer's compensation for any year and repeals a statute that allows only an elected town officer to waive compensation. It also allows a state elected official to waive some or all of the state officer's compensation for any year.

**Effective Date:** (Amended) Upon passage; January 1, 2005 (retroactive); January 1, 2008 (retroactive); October 1, 2008, (retroactive); December 30, 2008 (retroactive); January 1, 2009 (retroactive); March 1, 2009 (retroactive); July 1, 2009; January 1, 2010; July 1, 2010.

**Explanation of State Expenditures:** The bill has the following state expenditure impacts.

*State Appropriations:* The following summary is for state appropriations during FY 2010 and FY 2011.

<b>Category</b>	<b>FY 2010</b>	<b>FY 2011</b>
General Government	\$511,464,236	\$530,296,015
Corrections	678,977,695	693,251,380
Other Public Safety	101,794,671	102,445,723
Conservation and Environment	86,151,798	86,151,798
Economic Development	63,102,503	62,602,503
Transportation	0	0
Mental Health	270,271,979	270,344,557
Public Health	49,199,359	49,199,359
Medicaid	1,272,026,432	1,584,827,051
Social Services (includes F&C, SS, Vets)	1,244,340,830	1,244,340,830
Higher Education	1,720,547,566	1,733,411,163
Education Administration	16,559,754	16,559,754
Tuition Support - GF/Tuition Res. Trans.	6,399,400,000	6,518,400,000
Tuition Support - ARRA Funds	0	0
Social Security - Teachers	2,403,792	2,403,792
Teacher's Retirement - GF	687,306,248	714,798,497
Other Local Schools and Education	343,438,833	308,138,834
Distributions	249,753,902	179,753,902
<b>Total Operating</b>	<b>\$13,489,009,356</b>	<b>\$13,889,199,580</b>
Construction - Higher Ed	0	0
Construction - Other	211,167,387	211,167,373
<b>Total Construction</b>	<b>\$211,167,387</b>	<b>\$211,167,373</b>
<b>Total (Oper. + Const.)- GF</b>	<b>\$13,700,176,743</b>	<b>\$14,100,366,953</b>
BIF	\$15,270,983	\$15,270,983
Other Dedicated - Operating	1,898,434,343	1,933,379,800
Other Dedicated - Construction	35,995,996	35,995,992
Tobacco Settlement	148,502,601	153,068,190
Federal (Non-ARRA)	991,741,640	991,741,640
Federal - ARRA(a)	370,176,970	370,176,969
Federal - ARRA(b)	26,500,000	16,500,000
<b>Total Other</b>	<b>\$3,486,622,533</b>	<b>\$3,516,133,574</b>
<b>Total - All</b>	<b>\$17,186,799,276</b>	<b>\$17,616,500,527</b>

Tobacco Master Settlement Agreement appropriations are presented in the following table.

<b>Tobacco Master Settlement Agreement Fund Appropriations</b>	<b>FY 2010</b>	<b>FY 2011</b>
Attorney General	494,467	494,467
Rural Economic Development Fund	1,497,688	1,497,688
Indiana Prescription Drug Program	1,117,830	1,117,830
Children's Health Insurance Program	34,918,921	36,984,511
Community Mental Health Centers	7,000,000	7,000,000
Substance Abuse Treatment	4,855,820	4,855,820
Burial Expenses	1,607,219	1,607,219
Division of Aging Administration	1,447,410	1,447,410
Division of Disability and Rehabilitative Services Administration	360,764	360,764
Diagnosis & Evaluation	400,125	400,125
Epilepsy Program	463,758	463,758
Caregiver Support	809,500	809,500
<b>Bureau of Developmental Disabilities Services - Operating</b>	<b>1,869,887</b>	<b>1,869,887</b>
Crisis Management	4,136,080	4,136,080
Outreach - State Operating Services	2,232,973	2,232,973
Residential Services for Developmentally Disabled Persons	15,229,000	15,229,000
Cancer Registry	610,647	610,647
Minority Health Initiative	3,000,000	3,000,000
Sickle Cell	250,000	250,000
Aid to County Tuberculosis Hospitals	96,883	96,883
AIDS Education	817,245	817,245
HIV/AIDS Services	2,162,254	2,162,254
Test for Drug Afflicted Babies	58,121	58,121
State Chronic Diseases	1,078,427	1,078,427
Women, Infants, and Children Supplement	190,000	190,000
Maternal and Child Health Supplement	190,000	190,000
Cancer Education and Diagnosis - Breast Cancer	86,490	86,490
Cancer Education and Diagnosis - Prostate Cancer	93,000	93,000
Children With Special Health Care Needs	13,862,070	13,862,070
Project Respect	537,904	537,904
Donated Dental Services	42,932	42,932
Office of Women's Health	121,248	121,248
Minority Epidemiology	750,000	750,000
Community Health Centers	17,500,000	20,000,000
Prenatal Substance Use and Prevention	150,000	150,000
Local Health Maintenance Fund	3,860,000	3,860,000
Local Health Department Account	3,000,000	3,000,000
Evansville State Hospital Lease	2,731,281	2,731,281
Southeast Regional Treatment Lease	5,179,327	5,179,327
Logansport State Hospital Lease	2,834,022	2,834,021
Tobacco Use Prevention and Cessation Program	10,859,308	10,859,308
<b>Total Tobacco Settlement Funds Appropriated</b>	<b>148,502,601</b>	<b>153,068,190</b>

The appropriations from ARRA funds are presented in the following table.

<b>American Recovery and Reinvestment Act of 2009 - Appropriation Summary</b>			
<b>Type</b>	<b>To</b>	<b>FY 2010</b>	<b>FY 2011</b>
ARRA(a) *	Various	\$370,176,970	\$370,176,969
ARRA(b) **	Various	26,500,000	16,500,000
<b>Total Appropriations</b>		<b>\$396,676,970</b>	<b>\$386,676,969</b>
* ARRA(a): American Recovery and Reinvestment Act of 2009, Section 14002(a).			
** ARRA(b): American Recovery and Reinvestment Act of 2009, Section 14002(b).			

*Higher Education:* University bonding projects are listed in the following table.

	<b>Eligible for Fee Replacement</b>	<b>Total Project</b>
<b>Purdue University</b>		
Life Sciences Laboratory Renovations	10,000,000	10,000,000
Medical School Renovations	6,000,000	12,000,000
Drug Discovery Facility	0	20,000,000
Lafayette Campus Student Fitness & Wellness Center	0	98,000,000
IUPU at Fort Wayne Parking Garage	0	16,800,000
<b>Indiana University</b>		
Life Sciences Laboratory Renovations	10,000,000	10,000,000
<b>IUPUI</b>		
Life Sciences Laboratory Renovations	10,000,000	10,000,000
<b>Ivy Tech Community College</b>		
Anderson Campus	20,000,000	20,000,000
Bloomington Campus	20,000,000	20,000,000
Warsaw Campus	10,100,000	10,100,000
Elkhart Phase I Additional Authorization (Above 2007)	4,000,000	4,000,000
<b>Total Bonding</b>	<b>90,100,000</b>	<b>230,900,000</b>
* The authorization for Tamarack Hall Replacement is reduced by any funds that Indiana University receives for the replacement as insurance proceeds.		

The fee replacement on the \$90.1 M of bonding authority would be about \$7.23 M per year for 20 years at 5% interest.

The bill also reinstates about \$55.8 M of bonding that was authorized by the 2007 General Assembly and an additional \$4 M for the Ivy Tech Elkhart Phase 1 project in addition to the \$16 M authorized in 2007. The fee replacement on that bonding would be about \$4.8 M per year over 20 years.

The bill requires the Commission for Higher Education and SSACI to study the funding of college scholarship programs provided by SSACI and state educational institutions. They are to report and make recommendations to the State Budget Committee before June 30, 2010, on modernizing and improving scholarship programs. The study would be done within existing resources.

*Higher Education Energy Saving Projects:* The bill would increase the current limit of \$10 M for each state educational institution on qualified energy saving bonds to \$15 M. The bill would increase the amount of qualified energy saving bonds that can be issued by a state educational institution. [Currently, only Indiana University and Purdue University have qualified energy saving bonds (about \$8.6 M for Purdue University and \$8.8 M for IU)].

K-12 Education-

*School Formula:* The bill provides a two-year school formula for CY 2010 and CY 2011. The following table outlines the increase over CY 2009 funding levels. The free and reduced lunch percentage used in the formula is updated to the 2009 school year's percentage of students eligible for free or reduced lunch. The foundation grant is reduced from \$4,825 in CY 2009 to \$4,500 in CY 2010 and \$4,510 in CY 2011, and the free and reduced lunch funding level in the complexity index is reduced from \$2,400 to \$2,238 for CY 2010 and \$2,243 for CY 2011. The adjusted ADM used in the formula is the greater of a school's 3-year average ADM or the current year's ADM. The special education, career and technical education, prime time, and honors grants are funded at the same level as 2009. The formula also includes a grant to provide funding to restore schools to their 2009 regular program funding unless the regular program funding per ADM would increase by more than \$72 in CY 2010 and \$122 in CY 2011 from the 2009 regular programs funding per ADM. The CY 2009 calendar year tuition support cap is reduced from \$6.509 B to \$5.829 B, with the reduction of about \$610 M in state funds being funded by the federal ARRA.

	CY 2009	CY 2010	% Diff	CY 2011	% Diff
<b>State Regular</b>	5,145,878,710	5,695,834,586	10.7%	5,662,966,307	-0.6%
<b>Special Education</b>	494,507,827	496,006,129	0.3%	496,130,154	0.0%
<b>Career &amp; Technical</b>	87,168,425	89,750,609	3.0%	96,067,068	7.0%
<b>Prime Time</b>	121,694,902	124,434,682	2.3%	128,835,675	3.5%
<b>Honors</b>	17,143,200	18,029,473	5.2%	18,029,473	0.0%
<b>Restoration 2009</b>	0	81,993,055		131,660,505	60.6%
<b>ARRA</b>	609,999,093				
<b>Total</b>	6,476,392,157	6,506,048,534	0.5%	6,533,689,182	0.4%

*School Property Tax Replacement Grants:* The bill changes the school property tax replacement grant calculation. Under current law, to qualify for the grant a school must have circuit breaker losses of more than 2% of its total school property tax levy. For CY 2009, it is estimated that the current grant will provide sufficient funding to pay 100% of the circuit breaker losses for schools where the loss exceeds 2% of levy. For CY 2010, this bill changes the distribution of these grants to pay for the circuit breaker losses in excess of 2%.

As an example, under current law, if a school's total levy was \$10,000 and their circuit breaker loss was \$600, then the school would qualify for a \$600 grant, and if their loss was \$100, then they would not qualify for a grant since the loss is less than 2% of levy. Under the bill, if the loss is \$600, then they would qualify for a \$400 grant ( $\$600 - 2\% * \$10,000$ ), and if their loss is \$100, then they would not would qualify for a grant.

The estimated revenue for school property tax replacement grants is reduced from \$70 M to \$60 M for CY

2010. The cost of the school property tax replacement grants for CY 2009 is estimated to be about \$32 M.

*Virtual Charter Schools:* The bill defines a virtual charter school as a charter school where over 50% of the instruction is provided by virtual distance learning, online technologies, or computer-based instructions. Virtual charter schools would be funded at 80% of the statewide basic tuition support. The per-student aid to virtual charter schools would be about \$4,557 per student for CY 2010 and about \$4,654 per student for CY 2011 under the tuition support formula in the bill.

*School Consolidation:* The bill requires a school corporation with an ADM of fewer than 100 students to consolidate with an adjacent school corporation. Currently, one school, Prairie Township School in LaPorte County, meets this threshold. Their ADM is 36.5 for the 2009 school year, and the corporation receives state funding of about \$13,300 per student. Consolidating with an adjacent school corporation is estimated to reduce state expenditures by about \$200,000.

*Senator David C. Ford Educational Technology Fund:* The bill would allow the fund to make grants to schools for the purchase of:

1. Equipment, hardware, and software;
2. Learning and teaching systems; and
3. Other materials;

that promote student learning. Any expenditures would be within the current revenue.

*School Health Insurance:* The impact on the state would depend on the number and health experience of schools choosing to participate in the state employee health insurance plan. If schools with a large number of claims per employee choose the state plan, then the overall cost of the state employee health plan would increase and could increase the state costs of the state health insurance plan.

Any increase in costs may not necessarily imply additional budgetary outlays since the state's response to increased health benefit costs may include (1) greater employee cost-sharing in health benefits; (2) reduction or elimination of other health benefits; and (3) passing costs onto workers in the form of lower wage increases than would otherwise occur. It is unknown at this time if the state would pay added costs or pass the costs on to employees. Any type of voluntary offering creates adverse selection within the pool.

With respect to the state's self-insurance plans, administrative costs typically make up 15%-20% of the overall benefit costs. Administrative costs are scaled based on the size of the group. There are economies of scale that apply when a large group has the same administration. The larger the group, the lower the per member per month charge. Having a large group with the same administration creates cost effectiveness to the administrator. To the extent that the administration can be standardized and efficient in the system, overall health insurance costs can be reduced.

State expenditures for employee health insurance were about \$260.8 M for FY 2008.

#### State Tax Provisions-

*Department of State Revenue Provisions: Electronic Filing -* The bill imposes electronic filing requirements on: (1) persons registering as retail merchants; (2) entities registering to withhold Individual AGI Tax; and (3) refiners, terminal operators, and distributors remitting prepaid Sales Tax on gasoline. This requirement is effective after December 31, 2009. The bill requires these persons or entities to report and remit Sales and

Use Tax or file the withholding tax report and remit withholding taxes electronically through INtax - the DOR's online tax filing program. The bill does not apply to retail merchants registered before January 1, 2010, but adding an additional place of business after December 31, 2009. The electronic filing requirements for retail merchants and entities withholding AGI Tax are expected to result in future administrative savings to the DOR. These savings are indeterminable.

*Municipal Income Report*- This bill requires the DOR, in cooperation with the DLGF and the SBA to develop an annual report to: (1) identify the total number of taxpayers that live within a particular city or town; (2) identify the total adjusted gross income of those taxpayers; and (3) include any other information that can be abstracted from the taxpayers' individual income tax returns, as agreed to by DOR and the Legislative Services Agency. The DOR must provide this information to the Legislative Services Agency upon written request. This requirement will increase staff workload and use of computer resources at DOR, the DLGF, and the State Budget Agency.

*School Scholarship Tax Credit*: The DOR estimates that administrative costs to implement the School Scholarship Tax Credit provisions in this bill could be between \$200,000 to \$300,000. This estimate includes the potential cost of two or three full-time staff.

The DOR will incur additional expenses to revise tax forms, instructions, and computer programs to reflect the new tax credit. The DOR is also required to provide the following information on their website: (1) the credit application; (2) the time line for receiving the credit; and (3) the amount of credits awarded during the current calendar year. Contributors will receive a receipt from a scholarship granting organization that must be prescribed by the DOR, and include the amount of the contribution that is designated for use in a scholarship program. The DOR must also certify all qualifying applicants for certification as scholarship granting organizations and maintain a publicly available list of school scholarship programs that are certified as eligible to participate in the credit program. If a scholarship granting organization is suspected of fraud, then the DOR may conduct either a financial review or an audit of the organization. This bill provides for the DOR to adopt temporary rules to implement these provisions.

The cost of state tuition support could potentially decrease to the extent that scholarships shift students from public to private schools. Any savings could potentially offset the cost of the tax credit to the extent that the tax credit encourages new contributions that otherwise would not have occurred. Any potential savings realized from fewer students attending public schools would depend on future tuition support formulas and those reduced expenditures not being reallocated to other areas.

*Other Provisions*- The following provisions of the bill expected to result in minimal reductions in administrative cost for DOR are as follows:

- Requiring, instead of permitting, rounding to the nearest dollar of amounts on an income tax return.
- Requiring persons on a payment plan with the DOR to make periodic payments via electronic funds transfer.
- Requiring payments to the DOR with guaranteed funds when payment by a person cannot be collected and the person is assessed a 100% bad check penalty.

The following provisions of the bill expected to result in minimal increases in DOR's administrative costs are as follows:

- Requiring DOR to compile and publish on its Internet website a list of retail merchants whose certificates

have not been renewed or whose registration with the DOR has been revoked.

- Revisions of tax forms, instructions, and computer programs to reflect changes to tax deductions and tax credits.

*Gross Income Tax Refund:* The bill allows a town to qualify for a refund of Gross Income Tax that it erroneously paid in tax year 2003 or 2004 at the same time that it paid the Utility Receipts Tax. The amount to be refunded under the bill is unknown. In addition, it is unknown whether there is more than one town that would qualify for a refund under the bill.

*Internal Revenue Code Reference Update:* The bill updates the reference to the Internal Revenue Code (IRC) to incorporate all the federal changes made up to February 17, 2009. The current reference to the IRC pertains to all IRC provisions amended and in effect on January 1, 2008. The update would include changes as a result of the following federal acts:

- (1) The *Economic Stimulus Act of 2008* (P. L. 110-185), signed into law on February 13, 2008.
- (2) The *Heroes Earnings Assistance and Relief Tax Act of 2008* (P. L. 110-245), signed into law on June 17, 2008.
- (3) The *Housing and Economic Recovery Act of 2008* (P. L. 110-289), signed into law on July 26, 2008.
- (4) The *Emergency Economic Stabilization Act of 2008* (P. L. 110-243), signed into law on October 3, 2008.
- (5) The *American Recovery and Reinvestment Act of 2009* (P. L. 111-5), signed into law on February 17, 2009.

It is estimated that the fiscal impact to the state General Fund from the bill will begin in FY 2010. The estimated fiscal impact of the bill and the federal acts generating the fiscal impact are summarized in the table below. The *Economic Stimulus Act of 2008* is not expected to generate a fiscal impact. (Note: The fiscal impact reported during the regular session was estimated to begin during FY 2009. Due to the effective date of this bill, the impact formerly estimated to occur in FY 2009 has been moved forward and combined with the prior estimate for FY 2010.)

<b>Provisions (Revenue impact in millions)</b>	<b>FY 2010</b>	<b>FY 2011</b>
Heroes Earnings Assistance and Relief Tax Act	(0.05)	(0.02)
Housing and Economic Recovery Act	0.04	0.25
Emergency Economic Stabilization Act	(39.48)	(6.06)
American Recovery and Reinvestment Act	5.0	(2.1)
<b>Total Impact on State Revenue</b>	<b>(34.49)</b>	<b>(7.93)</b>

The bill decouples from the following provisions of the *Emergency Economic Stabilization Act*:

- (1) A provision that allows a financial institution to treat the gain or loss from the sale of preferred stock in Fannie Mae or Freddie Mac as ordinary gain or loss and not as a capital gain or loss - allowing losses from the sale of such stock to be written off against ordinary income instead of only capital gains. The provision applies to preferred Fannie Mae or Freddie Mac stock held by a financial institution on September 6, 2008, or sold by a financial institution between January 1, 2008, and September 7, 2008.
- (2) A temporary extension of the exclusion (for tax years 2010, 2011, and 2012) for any income received by

- a taxpayer by reason of discharge, either in whole or in part, of debt on the taxpayers' principal residence.
- (3) A temporary extension of the exclusion (for tax year 2009) for certain income derived by controlled foreign corporations (CFCs) conducting banking, financing, or insurance business.
  - (4) A temporary accelerated cost recovery period for retail building improvements and new restaurants placed into service in 2009.
  - (5) A bonus depreciation provision (50% depreciation in the first year) for certain real and personal property placed into service in 2008 and 2009 in a disaster area relating to a federally declared disaster occurring before January 1, 2010.
  - (6) A temporary extension of the special expensing provisions for refinery property.
  - (7) A temporary extension of special expensing provisions for film and TV production costs.
  - (8) A special 5-year (instead of 2-year) carryback for net operating losses that are qualified disaster losses incurred in 2008 and 2009.

The bill also decouples from the following provisions of the *American Recovery and Reinvestment Act of 2009*:

- (1) A temporary exclusion (for tax year 2009) from a taxpayer's gross income of up to \$2,400 of unemployment insurance benefits.
- (2) A provision allowing businesses to defer recognition of taxable income from the discharge of certain indebtedness in 2009, 2010, and 2011.
- (3) A special 5-year (instead of 2-year) carryback for 2008 net operating losses incurred by businesses with \$15 M or less in gross receipts.

*Media Production Tax Credit:* The bill changes the sunset date for the Media Production Tax Credit from January 1, 2012, to January 1, 2010, and prohibits new tax credits for qualified media production expenditures made after June 30, 2009. It is estimated that this change could reduce the revenue loss to the state General Fund from this tax credit by \$5 M each year in FY 2010 and FY 2011.

Current statute provides a refundable tax credit of: (1) 15% of the qualified media production expenditures by a taxpayer who makes less than \$6 M in qualified media production expenditures during the year; or (2) up to 15%, as determined by the IEDC, for taxpayer's making at least \$6 M in qualified media production expenditures during the year. Current statute also limits the total credits that can be allowed during a fiscal year to \$5 M.

*Sales Tax Exemption for Certain Media Production Expenditures:* The bill repeals the Sales Tax exemption for transactions involving tangible personal property acquired for direct use in a qualified media production effective July 1, 2009. Current statute sunsets this exemption as of January 1, 2011. It is estimated that this change could reduce the revenue loss to the state General Fund from this exemption by \$1 M each year in FY 2010 and FY 2011.

*Marion County PSDA Expansion:* The bill expands the Marion County PSDA to include the Hyatt Regency Hotel, the Westin Hotel, the Downtown Marriott Hotel, and the J.W. Marriott Place hotel complex on West Street next to Victory Field. It is estimated that the PSDA expansion will transfer \$8.0 M annually from the state General Fund to the Marion County CIB beginning in FY 2010.

The PSDA expansion would allow the CIB to capture state sales tax, state income tax, and county option income tax revenue generated at the hotels up to a maximum of \$8.0 M annually. The captured revenue is to be distributed to the Sports and Convention Facilities Operating Fund established by the bill. The Fund

is a nonreverting fund administered by DOR. The bill requires the CIB to utilize the money in the Fund only for paying operating expenses of capital improvements operated by the CIB. However, the bill provides that the annual transfer of the captured revenue to the Fund is contingent on the State Budget Director determining on January 1<sup>st</sup> each year that Marion County excise tax increases authorized by the bill for the Fund are in effect. The bill authorizes increases in the supplemental auto rental excise tax, the innkeepers tax, and the admission tax also to be distributed to the Fund (see *Explanation of Local Revenues*). For purposes of transfers in 2009, the bill provides for the State Budget Director to make the determination on September 1, 2009.

Currently, the Marion County PSDA includes Conseco Fieldhouse, the Indiana Convention Center, Lucas Oil Stadium, Victory Field, and the Colts' practice facility. The current PSDA is allowed to capture revenue from the state sales tax, state income tax, county option income tax, and county food and beverage tax. The captured revenue is utilized for debt payments relating to Conseco Fieldhouse, Lucas Oil Stadium, and the convention center. Current statute limits to \$16 M annually the state sales tax and state income tax revenue that may be captured by the existing PSDA. In FY 2008, state sales tax and state income tax revenue captured by the PSDA totaled almost \$15.1 M.

#### Property Tax, Budget, and Miscellaneous Tax Provisions-

*Reassessment Delay:* The one-year delay in the general reassessment could defer DLGF expenses for oversight by one year.

*Trending Catch-Up:* This bill provides that if a county assessor fails to deliver assessed values to the county auditor, then the DLGF would develop the trending factors to apply to affected assessments.

*Software Contracts:* Under current law, the DLGF must be a party to any contract between a county assessor and a professional appraiser or providers of assessment software. This provision clarifies that this requirement also applies to contract addendums. This allows the DLGF to play a role in the enforcement of these contracts.

*Sales Disclosure:* Under current law, the DLGF receives \$5 from the filing of each sales disclosure form. In FY 2008, the DLGF received \$864,950, which was deposited into the state Assessment Training and Administration Fund. Money in the fund may be used (1) by the DLGF to pay the expenses for development and administration of training programs for assessment officials and DLGF employees and (2) by the Indiana Board of Tax Review (IBTR) to conduct appeal activities or pay for appeal services. Under the bill, the DLGF could use the proceeds for database management expenses in addition to the current uses.

*Control Boards:* This proposal eliminates both the School Property Tax Control Board and the Local Government Property Tax Control Board. The School Control Board is comprised of five voting members plus two ex officio, nonvoting members. The Local Control Board is comprised of seven voting members plus two ex officio, nonvoting members. The school control board scheduled 12 meetings in 2008, while the local control board scheduled 13 meetings. All members of the control boards receive mileage reimbursement, and members who are not state employees receive a salary per diem. These expenses, which are paid from the state General Fund, would be eliminated under this bill.

Petitions regarding budgets for new taxing units, excessive levy appeals, debt issues, and any other items that currently come before the control boards would be made directly to the DLGF.

*Tax Bills:* The form of the property tax billing statement is currently prescribed by the DLGF but must also be approved by the State Board of Accounts. This bill would eliminate the requirement for Board of Accounts approval, allowing the Board to direct those resources elsewhere.

*School Assessment Ratio Studies (SARS):* Under current law, the DLGF must compute a school assessment ratio study each year in which a general reassessment occurs and in other years if the DLGF determines that there are sufficient assessment changes to warrant one. The study must include a new assessment ratio for each school corporation and a new state average assessment ratio. The ratio is an assessment of whether, and to what extent, real property within a school district has been assessed according to the assessment laws and rules.

Under this bill, the SARS would be required only for school corporations in counties that impose a supplemental county levy for schools. These school corporations are in Lake and Dearborn Counties. The state average ratio would no longer be required.

The SARS ratios had been used in determining property tax levies for school corporation general funds and are referenced in the statute concerning the county supplemental distributions. Since the school general fund levy has been eliminated, there is no need to compute these ratios in most counties. This provision would allow the DLGF to redirect resources that would have been used to complete a new SARS.

*Homestead Credits:* Under HEA 1001-2008, the state will pay homestead credits in the amount of \$140 M in CY 2009 and \$80 M in CY 2010. The state is required to make distributions to counties within two weeks from the date that a county sends a tax bill that includes the credit. Most counties send a two-part bill in one mailing that includes coupons for both installments of the property tax bill. The state must pay the entire calendar year's distribution to the county within two weeks of that mailing.

This bill would require the state to make the payments in two installments, each not later than the due date for each property tax installment. For counties with on-time billings, this provision would spread the calendar year payments over two fiscal years. For counties with late billings but with two installments, this provision would allow the state to hold one-half of the annual payment until the due date of the second installment. The state would earn additional interest on those funds.

*Referenda:* The bill would require the DLGF to post the following information regarding a proposed controlled project on the DLGF's web site:

- (1) The cost per square foot.
- (2) The effect on the tax rate.
- (3) The maximum term of the bonds or lease.
- (4) The maximum principal amount.
- (5) The estimated interest rate.
- (6) The purpose of the bonds or lease.
- (7) For schools, the current and proposed square footage per student, enrollment patterns, and the age and condition of the current facilities.

There should be no fiscal impact to the DLGF for posting this information.

*Solid Waste Management Districts:* IDEM would have to review the district plans of those counties that become a single-county solid waste management district either by default or because the joint district they belonged to has dissolved. IDEM may have to expend additional resources to meet this requirement.

Miscellaneous Provisions-

*Department of Child Services Ombudsman:* The bill establishes the Office of the Department of Child Services Ombudsman within the Department of Administration. It specifies the powers and duties of the Office. The bill appropriates \$141,882 for each FY 2010 and FY 2011.

*State Retiree Health Benefit Trust Fund:* The bill establishes the State Retiree Health Benefit Trust Fund to provide funding for the State Retiree Health Benefit Plan. The fund is to be administered by the State Budget Agency and is to be considered a trust fund, such that money cannot be transferred, assigned, or otherwise removed from the fund by the State Board of Finance, the Budget Agency, or any other state agency, other than for the exclusive benefit of participants of the State Retiree Health Benefit Plan.

The bill would reduce by 10% the required annual contribution made to the fund by the state on behalf of each employee. The annual reduction in state expenditures is estimated to be \$3.5 M.

The bill also changes the distribution of Cigarette and Tobacco Tax revenue and provides that 6.56% of the revenue that would have been deposited in the state General Fund for the purpose of a health initiative and for reimbursing the state General Fund for the employer health plan tax credit provided under IC 6-3.1-31 is to now be distributed to the trust fund. The estimated distribution of tax revenue is approximately \$32 M annually; however, cigarette and tobacco products tax revenue may decline from these levels in future years due to recent increases in federal cigarette taxes.

*Department of Child Services Provisions:* This bill will increase the speed by which DCS receives payment for a parental reimbursement obligation, so long as the child's case is still open. Additionally, the bill will allow DCS to contract with a private collection agency to collect parental reimbursement obligations which can help to increase revenue to the Department.

*Ohio River Bridges Project Commission:* This bill establishes the 5-member Ohio River Bridges Project Commission. The Commission is to work with lawfully authorized representatives of the Commonwealth of Kentucky to prepare a proposed agreement between Indiana and Kentucky to govern the financing, construction, and maintenance of Ohio River bridge projects.

The Commission is to submit any proposed agreement to the Governor for the Governor's approval. If the proposed agreement is approved by the Governor, the Commission shall submit the proposed agreement to the General Assembly for introduction in the first session of the General Assembly beginning after the date of the Governor's approval.

The Commission is to operate under the policies governing study committees adopted by the Legislative Council. Legislative Council resolutions in the past have established budgets for interim study committees in the amount of \$9,500 per interim for committees with fewer than 16 members. The fund affected is the state General Fund.

The Commission is to file an annual report with the Legislative Council in an electronic format by November 1 of each year. The Legislative Services Agency is to provide staff for the support of the Commission. The Commission may meet at any time during the calendar year. The Commission expires December 31, 2019.

*Board of Pharmacy Secure Prescription Program:* At the Governor's discretion, the bill would allow the Board of Pharmacy to develop and contract for a prescription drug program that includes criteria to eliminate

prescription drug fraud. It has been estimated that a total of \$4.74 M in state funds would be required if the Board would implement a program meeting the specifications of the bill. This estimate does not include other operating expenses to equip, supply, or house the additional staff necessary to operate the program within the Indiana Professional Licensing Agency (IPLA); any necessary enhancements to the IPLA computer system; or associated enforcement costs to law enforcement, IPLA, or the Attorney General. If a program to provide validation of prescriptions would achieve savings similar to those experienced in New York State, the annual Medicaid fee-for-service drug expenditures may be reduced by approximately \$12.4 M in state funds after the program is implemented. Depending on the date of full implementation, the level of savings in Medicaid may be temporarily reduced due to Medicaid stimulus funding available under the American Recovery and Reinvestment Act, which would temporarily reduce the required state match. An indeterminate level of savings may also be realized in state and local government employee health benefit plans.

*Medicaid Health Facility Quality Assessment Fee:* This bill would extend the required increase in Medicaid nursing facility reimbursement for two years. The bill requires that 80% of the QAF collected must be used to leverage federal Medicaid matching funds to enhance nursing facility reimbursement targeting specific uses. The remaining 20% of the estimated QAF must be used to offset Medicaid costs incurred by the state. Should federal financial participation become unavailable to provide for the additional reimbursement, the bill provides that OMPP will cease to collect the QAF.

A 6.2% enhanced federal Medicaid match add-on as well as an estimated 2.77% bonus unemployment percentage will be available to the state from October 1, 2008, to December 31, 2010. The bill provides for a temporary change in the percentage of the QAF collected that must be used to leverage federal matching dollars for nursing facility reimbursement to 60% from the current 80%. This revision in the percentage would limit total Medicaid nursing home reimbursement to approximately the same level it would have been, absent the federal ARRA Medicaid stimulus funding. Assuming that the bonus unemployment percentage would not increase over the period of time that stimulus funds will be available, the 60% share of the QAF targeted to nursing home reimbursement is estimated to result in about \$4.4 M more in total reimbursement to nursing facilities than would have been paid at the 80% level using the state's regular Federal Medical Assistance Percentage (FMAP).

*Rainy Day Fund Loans:* Under this bill, the Covington Community School Corporation would be eligible to apply for a loan before June 30, 2010, to pay a tax anticipation warrant. The loan may not exceed \$2.7 M and would have to be repaid with interest in equal installments over five years.

The bill also allows taxing units that suffer a significant revenue shortfall because of a vehicle transmission manufacturer bankruptcy to borrow up to a total of \$34 M. The loans must be repaid within 10 years and would be interest free. Currently, taxing units may apply for a loan if the unit experiences a significant revenue shortfall because of a default on property taxes as a result of a bankruptcy filing by a microelectronics manufacturer.

As of June 30, 2008, the balance in the state Rainy Day Fund was \$363.0 M.

*Department of Financial Institutions (DFI) Emergency Rules-* This provision would allow the DFI Board of Directors to adopt emergency rules to implement a system of licensing creditors and mortgage loan originators that meets the requirements of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008. The rules would be in effect until the system procedures are adopted by the General Assembly. The DFI Board of Directors would be able to adopt emergency rules within their existing level of resources.

*Criminal Code Evaluation Commission* – This bill provides that the 16-member Commission would evaluate Indiana’s criminal laws and recommend changes if necessary or appropriate. The Commission would include eight legislators, four state employees, two judges with criminal jurisdiction, and two law school professors who have expertise in criminal law. The commission is to operate under the policies governing study committees adopted by the Legislative Council. Legislative Council resolutions in the past have established budgets for interim study committees in the amount of \$16,500 per interim for committees with 16 members or more. Two state agencies, the Criminal Justice Institute and the Legislative Services Agency, would provide staff assistance. The legislation authorizing this Commission would expire on December 31, 2011.

*Studies: Gaming Study Committee* - The bill creates the Gaming Study Committee to report to the Legislative Council by December 1, 2009, findings and recommendations concerning issues related to a market analysis of gaming in Indiana. The chairman and ranking minority members of the Senate Appropriations Committee and the House Ways and Means Committee are voting members, and the chairman and ranking minority member of the Senate Commerce Committee and House Commerce, Energy, Technology, and Utility Committee, and two individuals who are not members of the General Assembly are nonvoting members. The committee will operate under the rules established by the Legislative Council for interim committees.

*I-Light Fiber Optic Network Study* - The Indiana Finance Authority (IFA) will incur costs to evaluate the I-Light Fiber Optic Network and submit a report to the Governor and Legislative Council by November 1, 2009. However, the costs are expected to be within the resources of the IFA. [The IFA is a body separate and politic from the state. It does not receive operating funds from the state General Fund and must use its own accounts to pay for the expenses it incurs. The I-Light Fiber Optic Network provides connections among Indiana University, Purdue University, and Indiana University-Purdue University-Indianapolis, and it is eventually to connect all universities in the state.]

*Commission on State Tax and Financing Policy* - The bill would require the Commission to do the following:

- (1) Study the allocation and distribution of local option income tax revenues to local units;
- (2) Study whether taxpayers are permitted the opportunity to participate in the local budget process;
- (3) Receive an Attorney General report concerning the use of private legal counsel by taxing units in an appeals case;
- (4) Study the advisability of eliminating the general real property reassessment; and
- (5) Review DLGF recommendations to restore the budget and tax billing timeline.

The Commission would report its findings to the Legislative Council before November 1, 2009.

*Budget Agency Study of Health Insurance Costs* - The Budget Agency must review the costs of providing employee health, vision, and dental insurance for state employees and employees of school corporations and public universities. School corporations and public universities must provide the data needed to complete the review as requested by the Budget Agency. The Budget Agency may use a part of the Departmental and Institutional Contingency Fund to hire professionals to assist in gathering and examining data. Specific costs will depend on determinations made by the agency. The agency must report findings of the review to the Budget Committee before July 1, 2010.

*Ocean-Going Containers*: Increasing the total gross weight from 90,000 pounds to 95,000 pounds for an ocean-going container may or may not increase revenue generated from the oversize/overweight (os/ow) permits. The DOR reports that since the enactment of the os/ow permit for ocean-going containers in CY 2007, four annual permits costing \$800 have been issued. The fund affected is the state Highway Fund.

The Indiana Department of Transportation (INDOT) provides DOR with a detour bulletin which lists bridge

capacities and clearances. This is used by the DOR to direct os/ow permit holders away from certain routes across the state. Deleting the requirement that ocean-going containers must have originated outside the United States could increase the number of permits to be issued by increasing the size of the potential market.

### **Explanation of State Revenues: K-12 Education**

*Charter School Payments to Common School Fund:* The bill allows charter schools to defer repayments of Common School Fund advances for FY 2010 and 2011. The length of the advances would be extended for an additional two years, so the state impact would be minor.

### **State Tax Provisions-**

*Streamlined Sales Tax:* The bill changes the definition of “gross retail income” for purposes of the Sales Tax and makes three other changes for purposes of conformity with the Streamlined Sales Tax agreement. The bill sources Internet access and telecommunications ancillary services to the customer’s place of primary use, and sources floral wire delivery orders to that florist who takes the original order. The bill also requires at least 30 days between enactment and effective date of a Sales Tax rate change for retail merchants to be liable for failure to collect tax at the new rate. These changes are not expected to result in a fiscal impact.

*Income Tax Deduction for Property Taxes:* The bill increases for certain taxpayers the maximum allowable homeowner's income tax deduction for property taxes paid in tax year 2009 only. The increase in the maximum allowable deduction would apply only to homeowners who make on-time payment of any or all of their 2007 Pay 2008 property taxes in 2009. This provision will not result in additional revenue loss to the state, but will shift revenue loss that would otherwise occur in FY 2009 (attributable to tax year 2008 AGI tax payments) to FY 2010 (attributable to tax year 2009 AGI tax payments). The precise revenue loss that could potentially be shifted from FY 2009 to FY 2010 is indeterminable and depends on the number of homeowners receiving late property tax bills and the magnitude of these late billings.

*Captive REIT Addback:* The bill specifically excludes a listed property trust or other foreign real estate investment trust (REIT) from the definition of a captive REIT under the addback provision of the Corporate AGI Tax relating to dividend payments from a captive REIT to a parent company. These trusts are currently interpreted to be excluded from the addback, so the amendment will have no fiscal impact. Under the bill, the exclusion applies to these trusts if they are organized in a country that has a tax treaty with the U.S. Treasury Department governing the tax treatment of such trusts.

*Treatment of Intermediary Pass Through Income:* The bill clarifies the treatment of income paid from an Indiana pass through entity [RDI/Caesars Riverboat Casino, LLC] to a pass through entity domiciled in another state [Riverboat Development, Inc., a Kentucky S-corporation]. Based on the Tax Court’s decision in *Riverboat Development, Inc. v. Indiana Department of State Revenue* (Cause No. 49T10-0506-TA-52), February 22, 2008, income received by a non-Indiana pass through entity from its interest in an Indiana pass through entity is, under current statute, not taxable income for purposes of the Individual AGI Tax. As a result, the non-Indiana pass through entity is not required to withhold AGI Tax on distributions to its shareholders. Under the bill, the income received by the intermediary pass through entity would be treated as business income from sources in Indiana, and the pass through entity would be required to withhold AGI Tax on distributions it makes to its shareholders. The tax court case voided a \$2.3 M assessment the DOR made against Riverboat Development, Inc.; however, the assessment had never been paid. This provision could potentially mitigate significant future losses of revenue from taxpayers currently conducting these

activities.

The bill also entitles a taxpayer to an income tax credit if additional income of the taxpayer becomes subject to Indiana income tax for tax years 2005 to 2008 due to the above-described provision. The tax credit is equal to the tax previously paid by the taxpayer, if any, to another state on this additional taxable income for tax years 2005 to 2008. The impact of this credit is indeterminable but would only affect additional taxes that may arise for tax years 2005-2008 under this bill.

*Income Tax Deduction for Roof Vents or Fans:* This bill provides an AGI tax deduction to individual taxpayers for the purchase and installation of solar-powered roof vents or fans beginning in tax year 2009. The tax deduction will decrease revenue to the General Fund by an indeterminable amount beginning in FY 2010 and is equal to the lesser of one-half of the amount paid for labor and materials for the installation of a solar-powered roof vent or fan or \$1,000. If 5,000 individuals claim deductions, then revenue could potentially decrease by \$127,500 to \$170,000. If 10,000 individuals claim deductions, then revenue could potentially decrease by \$255,000 to \$340,000.

*529 Contribution Credit:* The bill imposes two additional limits on claiming the tax credit for contributions to College Choice 529 Education Savings Plan accounts described below in (1) and (2).

(1) The bill specifies that contributions resulting from bonus points or other forms of consideration earned by the account owner (i.e., a bonus points program for credit card purchases) do not qualify for the tax credit. The extent to which this limit would lower the revenue loss or mitigate future revenue loss from the tax credit is unknown.

(2) The bill specifies that money transferred (under a rollover) from another 529 qualified tuition program to the account does not qualify for the tax credit. This limit may mitigate some future revenue loss, but it is assumed that most of the rollover activity resulting in tax credits has probably already been completed.

*School Scholarship Tax Credit:* This bill provides a nonrefundable tax credit to individuals and corporations that make contributions to scholarship granting organizations beginning in tax year 2010. The amount of credits that will be claimed and the resulting fiscal impact on the state General Fund beginning in FY 2011 is indeterminable. However, the amount of credits granted may not exceed \$5 M in any fiscal year.

The credit is equal to 50% of the amount of the charitable contribution, and may be taken against the Individual and Corporate AGI Tax, the Financial Institutions Tax, and the Insurance Premiums Tax. The tax credit may not be carried back or carried forward. Revenue from the Individual and Corporate AGI Tax, the Financial Institutions Tax, and the Insurance Premiums Tax is distributed to the state General Fund.

If 5,000 individuals or corporations donate \$500 each, then the revenue loss would be \$1.25 M. If 10,000 individuals or corporations donate \$1,000 each, then the revenue loss would be \$5 M. Charitable contributions must be made to school scholarship programs established by scholarship granting organizations to assist in payment of tuition, transfer tuition, and fees for eligible students.

Currently, there are approximately 7,770 students attending schools where tuition and fees are required and who qualified for the federal free or reduced price lunch program. This number has increased by approximately 0.22% since FY 2005. The average cost of education per student was approximately \$6,350 for FY 2008. Assuming the average cost of education per student, approximately 1,600 students could receive support from contributions of \$10 M—the maximum amount of contributions that would be eligible for the tax credit each fiscal year.

The bill defines an eligible student as an individual who: (1) is an Indiana resident; (2) is between ages 5 and 22; (3) either has been or is currently enrolled in a participating school; (4) either lives in a household with an annual income of not more than 200% of the amount required for federal free or reduced price lunch or received a scholarship in the immediately preceding school year or term and met the income requirement; and (5) is either enrolling in kindergarten, was enrolled in a public school during the school year preceding the first school year for which a scholarship granting organization provided a scholarship, received a scholarship in the previous year from a nonprofit scholarship granting organization that qualifies for certification as a school scholarship program, or received a school scholarship for the previous year.

The bill defines participating schools as public and nonpublic schools that: (1) an eligible student is required to pay tuition or transfer tuition to attend; (2) voluntarily agrees to enroll an eligible student; (3) is accredited by either the state board or a national or regional accreditation agency that is recognized by the state board; and (4) administers the tests under the Indiana Statewide Testing for Educational Progress (ISTEP) program or administers another nationally recognized and norm-referenced assessment of the school's students.

*Withholding on Slot Machine Winnings:* The bill includes the slot machine facilities at the horse racetracks under current statute requiring riverboat casinos to withhold and remit income tax on gambling winnings of (1) \$1,200 or more from a slot machine play or (2) \$1,500 or more from a keno game. It is estimated that the current withholding requirement applicable to the riverboat casinos results in an additional \$21.8 M in AGI Tax revenue from out-of-state gamblers who otherwise would not pay the tax on winnings. This provision could potentially generate additional withholdings to the extent that out-of-state gamblers who otherwise do not patronize riverboat casinos are patronizing the slot machine facilities. However, since these facilities are at interior locations, they may have a much smaller out-of-state market than the riverboat casinos which are in border areas. The potential additional revenue yield from the withholding requirement is indeterminable.

*Research Expense Tax Credit:* This bill provides that a taxpayer may elect an alternative method to calculate the Research Expense Tax Credit for Indiana qualified research expenses incurred after December 31, 2009. The alternative calculation of the credit is equal to 10% of the difference between: (1) the taxpayer's current year Indiana qualified research expenses; and (2) 50% of the taxpayer's average Indiana qualified research expenses for the three preceding taxable years. If the taxpayer did not have Indiana qualified research expenses in any one of the three preceding taxable years, then the amount of the credit is equal to 5% of the taxpayer's Indiana qualified research expenses for the taxable year. The alternative calculation method is similar to an alternative calculation method allowed for the federal income tax credit for increasing research activities. Current statute allows this alternative calculation method for certain taxpayers primarily engaged in the production of civil and military jet propulsion systems who are certified by the IEDC as an aerospace advanced manufacturer and meet other criteria.

It is not known how many taxpayers would select the alternative calculation method, but according to the IEDC, no taxpayers have been authorized by the IEDC to use the alternative calculation method for qualified aerospace manufacturers under the Research Expense Tax Credit.

*Hoosier Business Investment Tax Credit:* The bill changes the sunset date for the Hoosier Business Investment (HBI) Tax Credit to December 31, 2013. Under current statute, the HBI Tax Credit expires on December 31, 2011. This would allow the IEDC to award new tax credits for qualified investment occurring in 2012 and 2013. The potential amount of new credits that might be certified by the IEDC in 2012 and 2013 is indeterminable. For FY 2008, there were 18 companies eligible to claim about \$2.7 M in HBI credits.

*Coal Gasification Technology Investment Tax Credit:* The bill provides that the tax credit is refundable for

a taxpayer that makes qualified investment in an integrated coal gasification power plant and enters into a contract to sell substitute natural gas (SNG) from that power plant to the Indiana Finance Authority under SEA 423-2009. The bill would allow the tax credit to be refundable in equal amounts over 20 years. This change could enable a taxpayer to exhaust the tax credit sooner.

SEA 423-2009 is related to a proposed coal gasification project to produce SNG at Rockport, with investment reportedly totaling \$2 billion. The company developing the plant is an LLC. Under current statute, the members of the LLC could only claim the tax credit against their individual AGI Tax liabilities. Under the bill, the members of the LLC would be able to claim refunds if their tax liabilities were insufficient to exhaust the tax credit. Assuming the investment all qualifies for the tax credit, the tax credit would total \$125 M. The maximum amount that could be refunded each year would be \$6.25 M over 20 years provided the plant uses 100% Indiana coal each year. The credit would be reduced proportionately if the plant uses less than 100% Indiana coal.

Under current statute the tax credit is nonrefundable and may be claimed only against a taxpayer's Income Tax, Financial Institutions Tax, Insurance Premiums Tax, or Utility Receipts Tax liability (URT). The tax credit is 10% on the first \$500 M in qualified investment and 5% on qualified investment exceeding \$500 M. The tax credit may be claimed over 10 years. The maximum amount that may be claimed each year is the lesser of: (1) 10% of the total credit OR (2) the lesser of 25% of the taxpayer's URT or all of their tax liability for the year.

*Alternative Fuel Vehicle Manufacturer Tax Credit:* The bill extends qualification for the tax credit to a manufacturer of a vehicle that operates on biodiesel or ultra-low sulfur diesel fuel. The bill also limits the tax credit to the manufacture of passenger cars or light trucks with a gross weight of 8,500 lbs or less. Under current statute, the tax credit must be determined by the IEDC, with a maximum allowable tax credit of 15% of the qualified investment. Current statute allows the IEDC to award the tax credit for investment made between 2007 and 2012. The excess credit amounts may be carried for up to nine years. The impact of the changes is indeterminable and would depend on IEDC action.

*Inheritance Tax:* The bill makes the following changes relating to the Inheritance Tax. Both changes are expected to result in minimal revenue increases.

(1) The bill changes the time frame for the termination of the Inheritance Tax lien on property transferred by a decedent. The lien terminates by current statute either the earlier of when the tax is paid or 5 years after the decedent's date of death. The bill extends this time frame to 10 years after the decedent's date of death.

(2) The bill changes the deadline for refunding tax erroneously or illegally collected before interest accrues at 6% per annum. Currently, the refund must be provided within 90 days after the refund claim is filed with the DOR. The bill would change the deadline to 90 days after the later of the filing of the refund claim or receipt of the tax return by the DOR. Reportedly, the DOR tends not to even receive the tax returns from the counties within 90 days of the refund filing.

*Erroneous Refunds:* The bill allows the DOR to issue an assessment to recover refunds that are erroneously provided. The bill provides that an assessment must be issued within two years after making the refund or within five years after making the refund if the refund was induced by fraud or misrepresentation. This provision could potentially lead to an indeterminable savings due to recovery of erroneous refunds.

*Penalty Provision:* The bill creates two new Class A misdemeanors, interference with an investigation of an

Office of the Department of Child Services Ombudsman, and under certain conditions, for disclosure of information about a case before the conclusion of an investigation. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. However, any change in revenue would likely be small.

*Cigarette and Tobacco Tax Revenue:* This bill changes the distribution of Cigarette and Tobacco Tax revenue and provides that 6.56% of the total revenue that would have been deposited in the state General Fund for the purpose of a health initiative and for reimbursing the state General Fund for the employer health plan tax credit provided under IC 6-3.1-31 is to now be distributed to the trust fund. The estimated distribution of tax revenue is approximately \$32.5 M in FY 2010 and \$31.6 M in FY 2011; however, Cigarette and Tobacco Products Tax revenue may decline from these levels in future years due to recent increases in federal cigarette taxes.

*Prepayment of Sales Tax on Gasoline:* The bill will not impact the total amount of Sales Tax generated by the sale of gasoline. It could, however, result in a slight shift of Sales Tax revenue to future months. By statute, retailers are required to prepay the Sales Tax on gasoline. The bill provides that the prepayment rate is equal to the statewide average price per gallon, multiplied by the Sales Tax rate, multiplied by 80%. Under current statute, the prepayment rate is equal to the statewide average price per gallon, multiplied by the Sales Tax rate, multiplied by 90%.

*Sales Tax Exemptions:* This bill provides Sales Tax exemptions for the following::

- property that is part of a national, regional, or local headend or similar facility operated by a person furnishing video services, cable radio services, satellite television or radio services, or Internet access services.
- equipment and devices used to monitor blood glucose level.
- aircraft under certain conditions.

The estimated impact of these provisions is indeterminable but could be significant.

*Aircraft Sales Tax Exemption:* This bill provides that an aircraft is exempt from Sales Tax if the gross lease revenue derived from leasing or rental of the aircraft is equal to or greater than the book value of the aircraft; or 7.5% of the greater of the book value of the aircraft or the net acquisition price of the aircraft.

Under current statute, an aircraft is exempt from Sales Tax if the amount of lease revenue is equal to or greater than 10% of the original cost or the book value of the aircraft; or 7.5% of the original cost or book value of the aircraft if the value of the aircraft is at least \$1,000,000.

The bill provides that a person who acquires an aircraft with the intent to rent or lease the aircraft to another person for predominant use in public transportation by the other person or by an affiliate of the other person is exempt from the Sales Tax. Under current statute, a transaction in which a person acquires an aircraft for rental or leasing in the ordinary course of the person's business is not exempt from Sales Tax unless the person establishes under guidelines adopted by the DOR that the annual amount of the gross lease revenue derived from leasing or rental of the aircraft is equal to or greater than:

- (1) 10% of the greater of the original cost or the book value of the aircraft, if the original cost of the aircraft was less than \$1,000,000;
- (2) 7.5% of the greater of the original cost or the book value of the aircraft, if the original cost of the aircraft was at least \$1,000,000.

If the DOR determines that the gross lease revenue derived from leasing or rental of the aircraft in the

previous year will not meet the revenue threshold, the person is required to pay the Sales Tax in the current year.

*Special Volume Cap Provisions:* The bill provides that any special volume cap regarding bonds issued under a federal act providing the cap is in addition to the volume cap under Section 146 of the Internal Revenue Code. The Indiana Finance Authority is currently responsible for allocating the private activity bond caps and will be responsible for determining any allocation of special volume caps.

*Sales Disclosure:* Under the bill, public utility and governmental easement transfers would be added to the list of property transfers that do not have to be reported on a sales disclosure form. Revenue from sales disclosure filings would be reduced by the amount currently received from this type of transfer. The number of these transfers is not currently available.

*Medicaid Health Facility Quality Assessment Fee:* Extending the authorization for the collection of the QAF and the related increased expenditures from August 2009 to August 2011 would authorize an estimated annual collection of about \$100 M for each of FY 2010 and FY 2011 if nursing facility days remain constant. The bill also changes the percentage distribution of money collected from the QAF if the state is receiving an adjusted FMAP because of the ARRA. The total annual collections and the state share of the collections from both provisions are as follows.

Fiscal Year	QAF Collections	State Benefit from:		Total
		Extension of QAF	Temporary 40%	
FY 2006	\$ 333.9 M	\$ 62.7 M		
FY 2007	\$ 108.3 M	\$ 21.7 M		
FY 2008	\$ 107.7 M	\$ 21.5 M		
FY 2009	\$ 102.1 M	\$ 20.4 M	\$ 15.3 M	\$ 35.7 M#
FY 2010*	\$ 100.9 M	\$ 20.2 M	\$ 20.2 M	\$ 40.4 M
FY 2011*	\$ 99.9 M	\$ 20.0 M	\$ 10.0 M	\$ 30.0 M#

\* Estimated.  
# Temporary increase in state share is for less than a full year.

*Green Industries Fund:* This bill establishes the Green Industries Fund to be administered by the IEDC, and its purpose is to provide grants and loans to Indiana businesses that manufacture products that reduce energy consumption or lower emissions in the market of their intended use. The IEDC is required to base the awards of grants or loans on the following criteria: the number and quality of jobs being created, the community’s economic need, and the capital investment being made by the applicant. Grants from the fund cannot exceed 50% of project costs. This bill does not make an appropriation to the fund.

**Explanation of Local Expenditures: Education Provisions-**

*School Fiscal Year Budgeting:* The bill delays (from June 30, 2010, until June 30, 2011) the requirement that schools start budgeting on a fiscal year cycle. The provision could result in a minor reduction in school administrative expenses.

*School Nonrenewal Notice to Teachers:* Under current law, teachers have to be given notice if their contract

may not be renewed by May. The bill would extend the deadline to June 1 in even-numbered years and the later of June 15<sup>th</sup> or the day a budget is enacted by the General Assembly in odd-numbered years. The change could help schools in budgeting and could reduce the number of notices that might have to be issued.

*Capital Projects Transfer:* The bill would continue to allow schools to pay for utilities and property insurance from their capital project funds for CY 2010 and CY 2011. About 274 schools paid approximately \$175 M of utilities and property insurance from these funds.

*School Health Insurance:* The bill could decrease the cost of employee health plans for local schools. The impact would depend on the costs of schools' current health insurance premiums. For the 2007-2008 school year, schools spent about \$661.5 M on employee insurance benefits. Based on data provided by the School Boards Association, at least 55 schools have total health insurance premiums greater than the state total health insurance premium.

*Gaming Revenue for School Projects:* The bill allows a city where a riverboat casino or racetrack slot machine facility operates to use any revenues, including gaming revenues, to pay for the construction or renovation of a school building or to finance the construction or renovation of a school building.

#### Property Tax, Budget, and Miscellaneous Tax Provisions-

*Reassessment Delay:* Under current law, real property undergoes a general reassessment every five years. The next general reassessment takes effect with taxes payable in 2012. Annual adjustments to real property values are applied each year in which a general reassessment does not take effect. This bill would delay the Pay 2012 reassessment by one year so that it would instead first affect March 1, 2012, assessments for taxes payable in 2013. Counties would defer the expense of conducting a general reassessment for one year.

*Bond Issues:* Under current law, most obligations issued after June 30, 2008, must be repaid within 20, 25, or 30 years, and the term of most lease-rentals is limited to 20 to 25 years. The bill clarifies that the time limit begins after the first principal or lease-rental payment is made. Under the bill, bonds issued for a hospital for the Marion County Health and Hospital Corporation would not be subject to the 20-year maximum term.

*Trending Catch-Up:* This provision would likely allow those counties that currently struggle to complete annual adjustments to catch up and complete their assessment work on time. Timely assessments would encourage on-time property tax billings and could reduce the need for short-term borrowing.

*Exemption Filing:* Under current law, nonprofit corporations must refile their property tax exemptions every two years. A property tax exemption does not need to be refiled if:

- (1) The property is used for religious purposes or if it is owned by a religious organization and used for educational purposes; and
- (2) The exemption was properly filed at least once.

In addition to property owned by religious organizations, this bill would eliminate the refiling requirements for property owned, occupied, and used for educational, literary, scientific, and charitable purposes. Also under this bill, exemptions would not be terminated after a change in ownership if the property continues to qualify for an exemption. There are approximately 24,000 non-religious exemptions currently on file with county auditors. The elimination of periodic filing would reduce the administrative burden on each county auditor's office in the state. It would also eliminate situations where organizations temporarily lose their

exemption because they fail to make a timely filing.

*Referenda:* This bill defines "registered voter" for purposes of the statute specifying who is eligible to sign a petition requesting a referendum for a controlled project. Under this bill, "registered voter" would be defined as an individual who is registered to vote in the political subdivision on the date the county voter registration board makes the determination regarding whether persons who signed the petition are registered voters.

Under the bill, a taxing unit would be permitted to withdraw a project from the referendum process. If a project is withdrawn, it or a substantially similar project could not be resubmitted for one year.

*Utility Assessments:* Under current law, utility-owned personal property that is not a part of production, transmission, or distribution systems comprises about 0.2% of total utility personal property AV. For reporting purposes, the value is subtracted from total utility value on the state utility assessment form (UD-45) and then reported to the local assessor (Form-1). Under this provision, the property would not be reported separately on Form-1. Instead, the property AV would be reported on the UD-45 and distributed by taxing district along with the rest of the utility distributable property. This could cause a very slight change in share of the total utility AV that is attributed to each taxing district, although the total for each utility would remain unchanged.

*Assessment Appeals:* Under current law, the DLGF is responsible for assessing industrial facilities (real property only) with an estimated true tax value of at least \$25 M in Lake County. A taxpayer or the county assessor may appeal the assessment to the IBTR. Under this bill, a taxpayer still has the option of appealing the assessment. The county assessor, however, may not spend public money to appeal the assessment unless the county fiscal body adopts a resolution approving the proposed expenditure and also appropriates the total amount of the proposed expenditure. The fiscal impact of this bill would depend on whether the county fiscal body would appropriate funds for the appeals.

*PTABOA:* Under current law, the county PTABOA has five voting members. Two members are appointed by the county fiscal body and two are appointed by the county commissioners. The county assessor is the fifth member. If the county assessor is a Level 2 or Level 3 assessor-appraiser, then the commissioners may waive the requirement that at least one of their appointees be a Level 2 or Level 3 assessor-appraiser.

Under this bill, the county commissioners could elect to have a three-member PTABOA rather than a five-member board. In a three-member PTABOA, one member would be appointed by the county fiscal body and two would be appointed by the county commissioners. The county assessor would be a nonvoting member. The council's appointee and at least one of the commissioners' appointees must be a Level 2 or Level 3 assessor-appraiser. The reduction of the number of board members could reduce county costs for PTABOA salaries.

*Homestead Credits:* Under this provision, a homestead owned by residential trusts that did not receive the standard deduction for taxes payable in 2009 would receive a credit against their taxes payable in 2010. The credit would equal the difference between the taxes actually paid and the amount of tax that would have been due had the standard deduction and homestead credit applied. The county auditor would be permitted to reduce a taxing unit's certified assessed value in order to adjust the tax rate to offset the credit.

*Homestead Property Defined:* The additional homestead property defined under this provision would qualify for any locally funded homestead or residential credits available. The LOIT credits that are available as direct

taxpayer credits and the CEDIT homestead and residential credits for mitigation of inventory shifts are generated by a specified income tax rate. The available credits would be redistributed at a lower credit rate to include the new homestead property. The traditional COIT homestead credits are paid as a specific credit rate. The additional homestead property would cause an increased cost for these credits, which would reduce the amount of certified shares available for distribution to civil taxing units.

*Local Option Income Tax:* Under this provision, a county income tax council would have to hold at least one public meeting in each odd-numbered year to discuss whether the County Option Income Tax (COIT) rate should be adjusted. Currently, there is no requirement to meet.

*Township Fire Protection:* The bill allows townships to provide fire protection or emergency services within a municipality that lies at least in part in the township and does not have a full-time paid fire department without contracts if both legislative bodies approve. (Current law requires a municipality to lie entirely within the township to permit the arrangement.)

*Fire Department Fees:* This bill provides that any administrative fee charged by a fire department's agent must be paid only from fees that are collected and allowed by Indiana law and the Fire Marshal's schedule of fees. The bill specifies that an agent who processes fees on behalf of a fire department shall send all bills, notices, and other related materials to both the fire department and the person being billed for services.

*Marion County CIB:* The bill changes the membership and imposes several new requirements on the CIB. Under current statute, the CIB is composed of 9 members, six appointed by the Mayor of Indianapolis, 2 appointed by the Marion County Board of Commissioners, and one appointed by the Indianapolis-Marion County City-County Council. The bill increases the membership of the CIB from 9 to 11 members and reduces the number of members appointed by the Marion County Board of Commissioners from 2 to 1. The bill also provides that the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Governor each appoint members of the CIB. The member appointed by the Governor must reside in a donut county imposing a food and beverage tax for stadium/convention center funding. The new requirements imposed on the CIB are as follows:

- (1) The CIB is required to post its proposed budget and adopted budget on its Internet web site.
- (2) The CIB is required to prepare a long-range financial plan during 2009 covering the 2010 to 2041 period. The plan must specify a schedule for retiring all debt outstanding on January 1, 2010, and an estimated operating and capital budget for each year. The CIB must deliver a copy of the long-range financial plan to each member of the City-County Council and the Legislative Council. The bill requires the City-County Council to discuss the long-range financial plan at a public hearing.
- (3) The State Board of Accounts is required to annually conduct an audit of the CIB and prepare a financial report and a compliance audit report. The CIB is required to submit these reports to the City-County Council and post the reports on its Internet web site. The bill requires the City-County Council to discuss the reports at a public hearing.
- (4) The City-County Council and the Mayor must approve any issuance of revenue or general obligation bonds by the CIB.

*Public Work Project Financing:* Currently, a civil taxing unit or school corporation may borrow money from a financial institution for a term of up to six years to fund a public work project that costs no more than \$2M. This bill would allow the term to be as long as ten years. If a loan is taken for more than six years, overall interest payments would increase, but each annual payment would be reduced.

*Solid Waste Management Districts:* Solid waste management districts must hold public hearings to discuss the introduction of a property tax levy. Districts also have to hold public hearings whenever the membership of the district changes and a new or amended solid waste management plan has to be submitted to IDEM. In the event that a district is dissolved and the county becomes a new county district either by default or choice, the district also has to hold a public hearing before adopting a new budget. The district may incur additional expenses in preparing for and in conducting these public hearings if they are in addition to regular scheduled meetings.

In the second and subsequent years that a solid waste management district plans to levy a property tax, the county fiscal body has to review or approve the district's budget and property tax levy as applicable. Similarly, each fiscal body within a district has to approve the use of property taxes whenever the membership of the district changes and the new county district, new joint district, or existing joint district plans to levy a property tax in the following year (see *Explanation of Local Revenues*). The county fiscal bodies may have to expend additional resources in meeting this requirement.

*Child Welfare Surpluses:* Under HEA 1001-2008, surplus balances in a county's family and children's fund and children's psychiatric residential treatment services fund must be deposited into the county levy excess fund. Money in the levy excess fund may only be used to pay property tax refunds and to reduce the following year's levy. DCS has estimated surpluses in one or both funds in 86 counties totaling \$103.3 M, which will be used to reduce 2010 county general fund levies.

Rather than reducing levies in 2010, this bill would allow any county to transfer the surplus into the county's rainy day fund.

The bill would also permit St. Joseph County to transfer \$1 M into the county rainy day fund and distribute two-thirds of the remainder to the civil taxing units (not schools) in the county. The estimated surplus in St. Joseph County is \$11 M. Under the bill, the county could elect to distribute \$7.5 M to the civil taxing units, leaving about \$2.5 M to reduce the 2010 county levy.

*Wabash County Annexation:* Municipal legislative bodies in Wabash County would be allowed to annex noncontiguous territory where the entire area is not more than two miles from municipality boundaries. The annexed territory would have to be used for an industrial park containing one or more businesses. The territory must be owned by either the municipality or by an annexation-consenting property owner. If the annexed area(s) do not have an established industrial park within five years after the annexation, the territory would revert to its previous jurisdiction, if existing, or the defunct jurisdiction's successor. Generally, when an annexation is approved, services are extended to the annexed area. The annexing municipality would increase expenditures to provide those services, which may include police, fire, trash pick-up, and sewer/water services.

*Legal Representation:* Under current law, a township or county assessor, county auditor, county property tax assessment board of appeals (PTABOA), or member of the PTABOA may hire an attorney, rather than use the Attorney General, to defend an original assessment determination only with the written approval of the Attorney General. The private attorney is paid by the township, county, or defendant. Under this provision, the local official would not need the Attorney General's permission to hire a private attorney beginning with appeals for the March 1, 2005, assessment date. This provision could increase local legal costs if more private attorneys are hired to defend assessments.

*Procurement by Political Subdivisions:* This bill requires political subdivisions to consult at least two

cooperative purchasing organizations (if more than one exists) before making a procurement decision that costs at least \$50,000. This provision would apply to services, supplies, or transportation equipment, including buses. Political subdivisions are also required to maintain documentation that support the procurement determinations, which will be considered public records and subject to review by the State Board of Accounts. The Department of Administration may adopt rules and written policies to govern procurement by political subdivisions in order to ensure the best available price and quality are obtained.

*Waiving of Elected Officers Compensation:* This provision could reduce county, city, or township expenditures. Any amount saved would depend on the number of elected officials that waive compensation in a given year. (Town elected officers are already allowed to waive compensation.)

*Sheriff Sales:* Sheriffs would be required to transfer property taxes collected from the proceeds of a sheriff's sale to the county treasurer within ten days of the sale. Sheriff expenditures as a result of this provision should be minimally impacted.

**Explanation of Local Revenues:** *Income Tax Deductions:* Because the deduction for the installation of solar-powered roof vents or fans would serve to decrease taxable income, counties imposing local option income taxes could potentially experience a decrease in revenue from these taxes.

Counties with local option income taxes also may experience a revenue shift from one fiscal year to another in the event property tax bills are delayed and Pay 2008 and 2009 property taxes are deducted in 2009.

*Effect on Circuit Breakers:* Any provision that affects local property tax levies, assessments, deductions, or credits may have an effect on the local cost of circuit breaker credits. If, on the whole, the changes result in higher net tax amounts, then the cost of the circuit breaker credits will rise. If net tax is reduced, then the cost of the circuit breaker credits will also fall.

#### Property Tax, Budget, and Miscellaneous Tax Provisions-

*Reassessment Delay:* Assuming that all property is currently assessed in accordance with the current assessment and trending rules, a general reassessment under similar rules should produce changes in assessments that are equivalent to one year's trended changes. However, physical changes to properties that were not otherwise recorded are revealed during a general reassessment. For the most part, a one-year delay in the general reassessment should not result in significant changes to assessments or tax burdens.

*Bond Issues:* Under current law, a civil taxing unit or school corporation with a non-elected governing body may not issue debt payable from property tax without the approval of the county fiscal body or municipal fiscal body. Beginning in 2009 under this bill, non-elected school board debt issues would not be subject to this review.

*Golf Course Assessments:* Under this provision, golf courses would be assessed under the income capitalization approach. The bill requires local assessors to gather the necessary data from the golf course owner to compute assessments for the March 1, 2010, and 2011, assessment dates. The DLGF would be required to provide income capitalization tables for golf courses for assessments after 2011.

While income capitalization may currently be considered in determining golf course assessments, it is not in use in many areas. The assessments determined under this method are more than likely lower than the

current assessments. The required use of income capitalization would result in a reduction of assessed value for most golf courses. This would shift a part of the property tax burden from golf courses to all other taxpayers through a higher tax rate. The resulting higher tax rate could increase the local cost of circuit breaker credits in areas where the circuit breaker has been triggered.

*Mobile Homes - Inventory:* Under this provision, a mobile home would be treated as inventory if the home is (1) assessed as personal property, (2) located in a mobile home community, and (3) has never been occupied. Under current law, inventory is exempt from property taxation, so this provision would provide an exemption for these homes.

*Mobile Homes - Waiver:* Under this bill, the title holder of an abandoned mobile home may petition the county assessor for a waiver of property taxes if (1) the mobile home is not suitable as a residence, (2) the mobile home has little or no value as a residence, (3) the tax liability exceeds the resale value, and (4) the mobile home has been abandoned in a mobile home community. If the assessor grants the waiver, the title holder must dismantle or destroy the home.

Assessments on personal property mobile homes are not considered part of the certified value that is used to compute tax rates. This has to do with the fact that the assessment date for these homes is January 15th with taxes paid in May and November of the same year. Tax rates must be certified by February 15th, leaving little or no time to make the assessments and include them in the AV base.

The property tax revenue generated by mobile homes may be used to offset shortages in levy collections. While the tax rate would not be directly affected by an assessment reduction for mobile homes, the revenue received by the local units would be reduced. One exception to this explanation is the case where a unit collects more than 100% of its tax levy. In this case, the overage is used to reduce the following year's levy and tax rate through the unit's levy excess fund. So, it is possible, indirectly, for a reduction in mobile home-generated tax collections in one year to affect the following year's tax rate. There are approximately 90,000 to 100,000 mobile homes in the state.

*Fire Protection Territories:* Under current law, the legislative bodies of at least two contiguous taxing units may establish a fire protection territory (FPT). All units involved in the FPT are participating units, one of which is the provider unit. During the first three years of the territory's existence, the participating units each impose a property tax levy to support the FPT. After three years, the provider unit imposes a levy and tax rate upon all of the property in the FPT and the other participating units' levies for fire protection are eliminated.

Prior to the passage of HEA 1001-2008, a participating unit's maximum levy could be increased in those first three years in order to generate the unit's share of the amount necessary to fund the FPT. Under HEA 1001-2008, the levy for an FPT cannot increase by more than the income-based assessed value growth quotient (AVGQ), about 4% per year.

Under this bill, new participating units would submit their first-year proposed budget, levy, and tax rate for the FPT to the DLGF. The initial levy set by the DLGF would be the basis for future levy growth under the levy growth limits, except that the DLGF could reduce the base by all or a part of the initial levy that was used to establish an operating balance. Compared to the levy limits under current law, this provision could increase the property tax levy for future FPTs. A levy increase could increase the local cost of circuit breaker credits in areas where the circuit breaker has been triggered.

*Fire Protection Territories - Revenue Distribution:* Proceeds from CAGIT, COIT, and CEDIT are currently distributed to qualifying taxing units in the county based on each taxing unit's portion of the total qualified county levy. The excise taxes (motor vehicle, commercial vehicle, aircraft, and boat excise taxes) paid by residents or businesses located in each taxing district are distributed to each of the taxing units that serve that taxing district, based on each taxing unit's portion of the total district levy.

Beginning in 2010 under this proposal, the income and excise tax distributions would assume that the levies imposed within a participating taxing unit for an FPT are a part of the participating unit's basis for revenue allocation. Income tax and excise tax revenues for provider units would be reduced, while the revenues for the remainder of the participating units would increase. According to available data, there are currently 20 fire protection territories in the state. County auditors reported that FPTs received \$2.7 M in excise taxes in 2007, \$241,000 in CAGIT PTRC in 2008, and \$8.4 M in certified shares for CAGIT, COIT, and CEDIT in 2008.

Under this bill, revenue losses for provider units are estimated at \$130,000 in excise tax, \$31,000 in CAGIT PTRC, and \$550,000 in certified shares. The other participating units would have revenue increases in the same amounts. A change in CAGIT PTRC shifts property tax relief dollars between taxing units with no change in the units' total available revenue. A change in excise tax or certified shares is a change in spendable dollars.

*MRDD Levies:* Under HEA 1001-2008, the property taxes levied by a county for a CMHC or an MRDD center are exempt from the county's maximum levy limit if the center was funded in 2008. Future county levies are subject to the county's maximum levy limit in counties that did not fund a center in 2008. In addition, levy growth for existing centers is limited to the AVGQ.

Prior to the passage of HEA 1001-2008, these levies were not subject to the county's maximum levy limit. Appropriation and levy growth for a CMHC was already limited to the AVGQ. The appropriation and levy for an MRDD center was (and still is) limited to the amount generated by a tax rate of \$0.0333 per \$100 AV, as adjusted for valuation adjustments since 2003.

Currently, every county funds a CMHC, and 79 counties fund an MRDD center. Total levies for 2008 (or 2007 in a few counties) were \$32.4 M for CMHCs and \$10.8 M for MRDD centers.

Under this bill, all allowable levies to support a center would be exempt from the county's maximum levy limit. The appropriation and levy growth for CMHCs would continue to be limited to the levy growth factor. Counties that have not funded an MRDD center could appropriate and levy an amount in the first year up to the amount that would be generated by a tax rate of \$0.0333 per \$100 AV, as adjusted for valuation adjustments.

The maximum amount that could be levied for an MRDD center in the 13 counties that haven't funded one is about \$5.5 M. These counties include Daviess, Hancock, Hendricks, Henry, Howard, Jefferson, LaPorte, Martin, Parke, Posey, Putnam, Shelby, and Sullivan. A potential levy increase in the 13 counties without an MRDD center could increase the local cost of circuit breaker credits in areas where the circuit breaker has been triggered. The fiscal impact depends on local action.

*Review of Non-Elected Board Budget:* Under current law, a civil taxing unit with a non-elected governing body must submit its proposed budget and property tax levy for approval by the county fiscal body or municipal fiscal body if the percentage increase in the proposed budget is greater than the AVGQ. The taxing

unit must submit the proposal at least 14 days before the reviewing body holds budget approval hearings.

Under this bill, the taxing unit would be required to submit their proposal to the county or municipality at least 30 days before the reviewing body's hearing. All conservancy, solid waste management district, and fire protection district budgets would be subject to review, regardless of the percentage change in the budget. The bill also specifies that the budget and levy for a civil taxing unit with a non-elected governing body that lies completely within one of the four excluded cities in Marion County (Beech Grove, Lawrence, Southport, and Speedway) would be reviewed by the excluded city.

If a taxing unit fails to timely file the budget, levy, and tax rate estimates with the county or municipal fiscal body, then the taxing unit's prior year budget and levy would be continued for the current year under the bill. Likewise, if the reviewing fiscal body fails to make its recommendation before the deadline for budget adoptions, then the reviewing unit's prior year budget and levy would be continued for the current year.

*Local Budgets - County Review:* Under current law, civil taxing units in a county without a tax adjustment board must submit their estimated budget, levy, and tax rate to the county fiscal body for review at least 15 days before the unit adopts the budget. The county fiscal body must perform a review and must issue a nonbinding recommendation regarding the proposal.

Under this bill, the taxing units would be required to submit their proposal to the county fiscal body at least 45 days before the unit adopts the budget. The county fiscal body would be required to issue the nonbinding recommendation at least 15 days before the unit adopts the budget.

If a taxing unit fails to timely file the budget, levy, and tax rate estimates with the county, then the taxing unit's prior year budget and levy would be continued for the current year under the bill. Likewise, if the county fiscal body fails to make its recommendation on a timely basis to any civil taxing unit, then the county unit's prior year budget and levy would be continued for the current year.

*Marion County TIF:* Prior to the passage of HEA 1001-2008, the City of Indianapolis could capture the property taxes paid on personal property within a TIF area and allocate those revenues to pay for PTRC-like credits that were granted to real property owners in the TIF area. HEA 1001-2008 repealed PTRC, the PTRC-like credits, and the ability to capture the personal property payments.

Under this provision, the Marion County Metropolitan Development Commission may fund a part of the tax increment replacement amount by once again capturing the taxes paid on personal property in the TIF area.

*Tax Bills - Provisional:* Under current law, a county may elect to send out provisional tax statements to its taxpayers if the county abstract is not completed by March 15th of the tax payment year. The abstract is prepared when tax rates are certified and tax bills are figured. Provisional bills are based on 90% of the previous year's taxes. The first installment is due on May 10<sup>th</sup> unless the notice of reassessment or trended assessment is sent after March 26<sup>th</sup>, in which case the payment is due 45 days after the tax billing statement is mailed. The second installment is due on November 10<sup>th</sup> unless the May due date was delayed, in which case the November due date may be moved to any date through December 31<sup>st</sup>.

Under this proposal, the provisional bills could be based on up to 100% of the previous year's taxes and would include adjustments as prescribed by the DLGF.

In addition, under the bill, the county treasurer may elect to use provisional bills in parts of the county that

are served by cross-county units for which there is no tax rate certified due to issues in the neighboring county.

*Maximum Levy Adjustment:* Prior to the passage of HEA 1001-2008, the state made distributions to local taxing units to pay a part of the cost of benefits under the pre-1977 public safety pension plans. Beginning in 2009 under HEA 1001-2008, the state has assumed the remainder of the cost of those benefits. HEA 1001-2008 also required a reduction in maximum levies by the amount of the state payments. The DLGF has administered this section by reducing the taxing units' maximum levies by the *additional* amount of state payments made under HEA 1001-2008 rather than by the entire amount of the new plus existing state payments. This bill would legalize the actions taken by the DLGF.

*Distribution of Delinquent Tax Payments:* Under current law, collections of delinquent property taxes are distributed along with current year property tax collections to the taxing units based on each taxing unit's current pro-rata portion of the total district tax rate. Beginning in 2009, there are no longer any school general fund tax rates. So, delinquent property tax payments from original tax years prior to 2009 would now be distributed on a different basis than they would have been originally.

Under this provision, school corporations would receive an additional portion of the late tax payment that is equal to the amount that would have been originally distributed to the school general fund. The school corporation would be required to deposit the payment into the general fund. The distributions for other taxing units and funds would be reduced.

*Conservancies:* Under current law, a conservancy district's estimated budget must include an amount for contingencies equal to 10% of the budgeted expenses. Conservancy district budgets are subject to review by the tax adjustment board and the DLGF.

Under this bill, the contingency amount would be subject to budget review and approval and would be limited to 10% of expenses rather than being equal to 10%. There were 67 conservancy districts in 46 counties that had an appropriation in 2008 (2007 for two counties). Total appropriations were \$27.5 M, and the special benefits tax amount was \$13.3 M. This provision could reduce conservancy district appropriations and tax by up to 10% of these amounts.

Under the bill, the interest rate that would prevail for taxpayer assessments paid in installments would equal the prime rate on the date that a resolution of financing is adopted plus 2% if the resolution is adopted after June 30, 2009. Currently, there are no rate specifications.

*Solid Waste Management Districts - Property Tax Levy and Fees:* Under current law, a county may either designate itself as a solid waste management district or establish one with other counties. If the district plans on imposing a property tax, each county within the district must approve.

Under this proposal, for taxes payable in 2010 and after, the district must first hold a public hearing before obtaining approval, now extended to August 1 from May 1. For the second and subsequent years, the proposed property tax levy must first be approved by a majority vote of all the members of the board. The board has to submit its proposed budget and property tax levy to the county fiscal body or the city-county legislative body for review and/or approval as required.

*Assessment Appeals:* Under current law, a taxpayer may file for a review by the property tax assessment board of appeals of a county or township assessment of the taxpayer's tangible property. Under this bill, if

the new assessment is more than 10% higher than the previous year's assessment, the county or township assessor has the burden of proving that the assessment is correct. This may result in an increase in taxpayer filings with the PTABOA and an increase in the workload for the PTABOA and county and township assessors.

*Homestead Property Defined:* Under current law a homestead is defined as a principal residence consisting of a dwelling and up to one acre of land. Some improvements located on the home site are not considered homestead property. These improvements include, but may not be limited to, decks, patios, gazebos, and swimming pools. Since these improvements do not qualify as homestead property, they are not subject to the standard or supplemental standard deductions, they do not qualify for homestead credits, and the circuit breaker cap for that part of the property is 3% (3.5% in 2009) instead of 1% (1.5% in 2009).

Under this provision, beginning with taxes payable in 2011, decks, patios, gazebos, and swimming pools would be considered part of the homestead qualifying property. The standard and supplemental deductions would apply as would any local homestead credits and the 1% circuit breaker cap.

The additional standard and supplemental standard deductions are estimated at \$1.5 B. These additional deductions would cause a shift in the property tax burden from the owners of the subject property to all other property owners. The shift is estimated at \$14 M in 2011. In addition, the cost of the circuit breaker cap to local taxing units and school corporations would rise by an estimated \$9.8 M, from \$443.3 M to \$453.1 M in 2011.

*Solid Waste Management Districts - Adoption of Annual Budgets:* Under current law, the DLGF must approve the budgets of solid waste management districts. Under this bill, for taxes payable in 2010 and after, in addition to the DLGF approval the annual budget must be approved by a majority of the members of the board.

*Solid Waste Management Districts - Dissolution of Solid Waste Management Districts:* Under current law, if a county withdraws from or is removed from a joint district, the county must either designate itself a new district or establish a joint district with other counties. The new entity has to either submit a new plan to IDEM or amend its existing plan as required.

Under this proposal, for taxes payable in 2010 and after, the new entity must also hold a public hearing before submitting its plan to IDEM for approval. If it plans to levy a property tax, it must do so in accordance with the provisions of this bill. If the county is the sole remaining member of a former joint district, it must either designate itself as a new county district or form a joint district with other counties. If all other counties withdrew from the joint district with the last county to withdraw doing so between December 2, 2006, and December 31, 2009, inclusive, the county (which is now the lone remaining member of the former joint district) must before January 1, 2010, either designate itself a new district or join an existing district.

A county that chooses to become a new county district must first hold a public hearing before adopting a new budget and submitting a district plan to IDEM for approval. If it plans on levying a property tax, the county fiscal body must approve in accordance with the provisions of this bill. The board shall appoint and convene a new solid waste management advisory committee.

This bill would potentially give taxpayers, district board members, and county officials more control over a district's budget. The fiscal impact would occur if budgets and/or property tax levies were reduced. In 2007 and 2008 there were approximately 68 solid waste management districts that either levied property taxes or

had an appropriation. Under this bill the budgets and property tax levies of the 32 districts that levied property taxes in 2008 would be subject to review (under current law only the seven counties that increased their property tax levy by over 5% would be reviewed).

*TIF:* Under current law, the maximum term for repayment of TIF obligations begins from the date that the TIF is established. Under this provision, the term would start on the date on which the first obligation is incurred.

*Property Tax Exemptions:* This bill provides an entity additional time to file for a property tax exemption that applies to taxes payable from 2002 through 2010 for property owned and used for educational, literary, scientific, religious, or charitable purposes. The extension of time applies if the owner failed to file an application or if there was insufficient documentation attached to the application. Exemption applications could be filed through August 31, 2009, under this provision. Under the bill, refunds would be issued for taxes already paid if the entity qualifies for an exemption. The number of entities and the potential refund amount is unknown.

Under this provision, a Marion County nonprofit, private school would have through August 31, 2009, to retroactively file for property tax exemptions on donated property for taxes payable in 2007, 2008, and 2009. To qualify, the school must have been in existence for at least 45 years, the property had to have been exempt for taxes assessed in 2005 (before the donation), and the property would have otherwise qualified for an exemption. The annual taxes on the property are about \$46,000 per year. With penalties and interest, the owner is liable for a total of about \$150,000 for the three years. This bill would cancel the liability and reduce collectable property taxes by the same amount in those three years.

In addition, a Marion County church that purchased an adjacent parcel after March 1, 2007, and that failed to timely file an exemption application for taxes payable in 2009 would have through August 31, 2009, to apply for an exemption under this provision. Under current law, the church will receive a tax bill for this parcel. However, since the assessments, levies, and tax rates for taxes payable in 2009 in Marion County won't be finalized for some time, the exemption can be granted without causing a shortfall.

*CVET:* Under current law, each taxing unit's Commercial Vehicle Excise Tax (CVET) distribution is equal to 105% of the amount that the unit received in the prior year, going back to the base year. The CVET tax rate is calculated by dividing the amount needed to make the unit distributions by the commercial vehicle registration fees paid in the previous year. The rate is applied to current registrations to generate the current year CVET liability for each vehicle.

Under this bill, beginning in 2009, the base revenue amount for each taxing unit would equal the previous fiscal year's CVET revenue apportioned in the same percentage as the revenue was distributed in 2001 (and each year thereafter).

There are two effects from this change. First, taxing units will no longer be guaranteed to receive an annual 5% increase in their CVET distributions. This bill would, in effect, freeze the rate. The amount of revenue received each year would be directly tied to the percentage change in total registration fees paid on commercial vehicles. If total fees go up, then the CVET revenue would increase. If total fees drop, then the CVET revenue drops. However, because of the issue cited below, the revenue received in 2009 would be slightly reduced because it would be based on 2008 actual collections. Total CVET collections were \$62.5 M in FY 2008.

The other effect is to fix a problem with the rate calculation under current law. Registration fees for farm vehicles are one-half as much as they are for other vehicles. In order to compensate for this difference, the amount of registration fees paid on farm vehicles was double-counted in the CVET rate formula. However, farm vehicles now pay one-half of the regular CVET tax amount. The result is a shortage in available funds to make the guaranteed distributions to local units. This will no longer be an issue under this proposal.

*Fairland:* The bill provides that the population of the town of Fairland, for purposes of certain Indiana laws, is 325. This would direct certain tax revenue distribution to the town of Fairland, and correspondingly reduce the distributions to other local units. Currently, a portion of the Motor Fuel Taxes, Alcoholic Beverage Taxes, and Cigarette Taxes are distributed to local units of government based on their share of population as certified by the Census Bureau.

*Major Bridge:* Under current law, the executive of a county whose population is between 100,000 and 700,000 and which has a major obstruction between its commercial or population centers is authorized to provide a major bridge fund for the construction of major bridges. To provide for the fund, the executive may levy a tax on all taxable property within the county. The rate may not exceed \$0.0333 on each \$100 of assessed valuation of property. Currently, Allen, Elkhart, Hamilton, LaPorte and St. Joseph Counties have county major bridge funds.

Under this provision, money in the Allen County Major Bridge Fund could additionally be used for constructing, maintaining or repairing bridges, approaches or grade separations with respect to structures other than major bridges.

In CY 2008, Allen County levied about \$2.5 M for the major bridge fund. Appropriations were approximately \$2.0 M.

*Internal Revenue Code Reference Update:* The IRC update could potentially affect taxable income of individual taxpayers. The impact on counties imposing local option income taxes is indeterminable and would vary.

*Marion County Capital Facilities Operating Funds:* The total estimated revenue impact of the bill to the Marion County CIB is summarized in the table below. The revenue from the sources listed in the table are to be distributed to the Sports and Convention Facilities Operating Fund and used only for operating expenses of capital improvements that the CIB operates.

Sources (in millions)	FY 2010	FY 2011	FY 2012
<b>State Taxes</b>			
Marion County PSDA Expansion	\$8.0	\$8.0	\$8.0
<b>Marion County Taxes/Fees</b>			
Supplemental Auto Rental Tax Increase (2%)	1.8	2.5	2.6
Innkeepers Tax Increase (1%)	2.9	4.0	4.2
County Admissions Tax Increase (4%)	4.4	4.5	4.5
<b>Subtotal Marion County Taxes/Fees</b>	<b>\$9.1</b>	<b>\$11.0</b>	<b>\$11.3</b>
<b>Grand Total</b>	<b>\$17.1</b>	<b>\$19.0</b>	<b>\$19.3</b>

Marion County PSDA Expansion: See *Explanation of State Revenues* for discussion of this change.

Marion County Taxes/Fees: The bill allows Marion County to increase the supplemental auto rental excise tax, the innkeepers tax, and the county admissions tax beginning September 1, 2009. The rate increases must be adopted before September 1, 2009, and the bill does not provide for a termination date on these rate increases. The estimates on the supplemental auto rental excise tax and the innkeepers tax assume nine months of collections from the increased rate in FY 2010. Actual revenue from each of the rate increases could be higher than estimated above to the extent that new business is attracted by new hotels in the downtown area and the convention center expansion.

(1) The bill allows the supplemental auto rental excise tax to be increased from 4% to 6%. The current 4% tax generated about \$4.6 M in FY 2008.

(2) The bill allows the innkeepers tax to be increased from 9% to 10%. The current 9% tax generated about \$36.2 M in FY 2008.

(3) The bill allows the county admissions tax to be increased from 6% to 10%. (Note: The tax is currently imposed on the price of admission to any event held in Lucas Oil Stadium, the Convention Center, Victory Field, or Conseco Fieldhouse.) The current 6% tax generated about \$6.5 M in FY 2008.

*Sales Tax Exemption for Certain Media Production Expenditures:* The repeal of the Sales Tax exemption for transactions involving tangible personal property acquired for direct use in a qualified media production (see *Explanation of State Revenues*) will result in a minimal increase in revenue to the Public Mass Transportation Fund, the Industrial Rail Service Fund, and the Commuter Rail Service Fund.

*City Youth Sports Complex Admissions Tax:* The bill authorizes a city to impose a 5% admissions tax on paid admissions to events at a youth sports complex that: (1) has a multipurpose outdoor stadium with at least 4,000 seats, indoor sports facilities, and fields for baseball, soccer, softball, and lacrosse; and (2) is located in a geographic area that has been annexed by the city before the adoption of the ordinance to impose the tax. Revenue from the admissions tax may be used to finance, construct, reconstruct, or improve certain capital improvements and other costs related to the financing of the improvements.

Currently, Westfield would qualify to impose the admissions tax. The potential revenue yield from the tax is indeterminable. It is also unknown whether other cities could qualify to impose this tax.

**State Agencies Affected:** All.

**Local Agencies Affected:** All.

**Information Sources:**

**Fiscal Analyst:** Alan Gossard, 317-233-3546; Diane Powers, 317-232-9853.