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**FISCAL IMPACT STATEMENT**

**LS 6023**

**BILL NUMBER:** HB 1001

**NOTE PREPARED:** Jul 2, 2009

**BILL AMENDED:** Jun 30, 2009

**SUBJECT:** Budget Bill.

**FIRST AUTHOR:** Rep. Crawford

**FIRST SPONSOR:** Sen. Kenley

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:**  GENERAL  
 DEDICATED  
 FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** *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:**

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 by Purdue University and Indiana University in excess of debt payments to be used to fund basic research for the Indiana Innovation Alliance. It provides that the amount of bonds outstanding for Ivy Tech Community College at any time for qualified energy savings projects may not exceed \$45,000,000. It also provides that qualified energy savings project bonds are not eligible for fee replacement.

The bill provides that Vincennes University is not required to make employer contributions to the Indiana State Teachers' Retirement Fund (TRF) for the employment during the period July 1, 2001, through June 30, 2009, of Vincennes University's employees who are members of the pre-1996 plan. It provides for a phase-in beginning July 1, 2009, of employer contributions to be made to TRF for those employees.

**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 to increase the foundation amount for each school corporation eligible for a 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 also provides that if a school corporation elects to cover employees under a state employee health plan, all employees covered under a prior policy must be covered under the state employee health plan.

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 Prairie Township School Corporation to reorganize by consolidating with an adjacent school corporation under the school consolidation provisions. It specifies that the evaluation plan may provide that collective program results of tests used by the school corporation may be used as a factor, but not the sole factor, to evaluate all educators in order to enable the state to compete for U.S. Department of Education funding.

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 200 students who attend virtual charter schools in the school year ending in 2010 and 500 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.

The bill authorizes a city or county 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.

The bill also permits the DOE to provide for data retrieval of timely student test numbers beginning in 2010.

*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 in some cases to the location of the florist where the order originated. 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 sales taxes through the department's online tax filing system. 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 \$2,500,000 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. The bill requires certain large tax refunds to be applied against future tax liability.

The bill provides that the maximum amount of the state tax credit for media production expenditures for all taxpayers in a state fiscal year is \$2,500,000 (rather than \$5,000,000). 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 municipality; (2) identifies the income of those taxpayers; and (3) includes certain other information.

The bill also allows the DOR to require a person who is paying outstanding sales tax or withholding tax liability using periodic payments to make the periodic payment by electronic funds transfer through an automatic withdrawal from 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, 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.

The bill prohibits the Indiana Horse Racing Commission and the Indiana Gaming Commission from: (1) imposing, charging, or collecting by rule a fee that is not authorized by statute on any party to a proposed

transfer of an ownership interest in a license; or (2) making the approval of a proposed transfer of an ownership interest in a license contingent upon the payment of any amount that is not authorized by statute.

*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. 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, levy, and 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 Justification:* The bill provides that if a notice of review of a property tax assessment is filed for an assessment that increased by more than 5% over the preceding assessment, the assessor 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.

*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. The bill also provides, for counties with an April 1, 2009, aggregate balance of at least \$10,000,000 in the county's family and children's fund and children's psychiatric residential treatment services fund (required to be transferred to the county levy excess fund under P.L.146-2008), that the county may transfer \$1,000,000 from its levy excess fund to the county's rainy day fund and two-thirds of the balance to civil taxing units in the county for public safety.

*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 unincorporated areas of the county and in municipalities where an interlocal agreement has been reached.

*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 the following taxing units to obtain loans from the Rainy Day Fund: (1) The Covington Community School Corporation to pay a tax anticipation loan; (2) 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; (3) A county where voting equipment has been damaged or destroyed in a natural disaster; and (4) The City of LaPorte because of a delay in tax revenues.

This bill also 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.

*Mortgage Deduction and Standard Deduction Filing:* For the mortgage deduction and the standard deduction, the bill requires the application to be completed and dated in the calendar year for which the person wishes to obtain the deduction, but allows filing on or before January 5 of the next year.

*Standard Deduction - Eligibility:* The bill provides that certain properties are considered homesteads even though they are not owned by the individuals residing on them or by certain trusts. It requires county auditors to reinstate any standard deductions terminated because of the ownership of the properties upon receiving proof of the property's eligibility for the deduction and that the individual residing on the property is not claiming any additional standard deductions.

*TIF Levy Limits:* The bill provides that the levy limits do not apply to assessments or taxes for tax increment replacement.

*Local Unit Debt Provision:* 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.

*Industrial Facilities:* This bill requires county assessors to annually provide a list of industrial properties to the DLGF.

*Public Safety Pension Funds:* The bill establishes requirements concerning the use of amounts in 1925, 1937, and 1953 public safety pension funds.

*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 provides that the State Treasurer shall invest in obligations of the Marion County Capital Improvement Board if certain conditions are met. The bill provides that the investment may not exceed \$9 M per year for 2009 through 2011. It provides terms for the CIB obligations issued to the State Treasurer and permits the Marion County City-County Council to increase, before September 1, 2009, the innkeeper's tax by not more than 1% (9% to 10%). The bill also permits during January through March 2013 the supplemental auto rental excise tax to be increased by not more than 2% (4% to 6%) and the admissions tax to be increased by not more than 4% (6% to 10%). It deposits the revenue from the county tax increases in a new sports and convention facilities operating fund for the CIB. The bill restricts the use of the new operating fund to paying usual and customary operating expenses with respect to capital improvements operated by the CIB.

The bill allows for an addition to the Marion County Professional Sports Development Area to include the hotels in an area bounded by Washington, Illinois, and Maryland streets. The bill provides for state sales taxes and state and local income taxes from the additional area to be captured for the CIB up to \$8 M per year. It allows the captured taxes to be deposited in the new sports and convention facilities operating fund for the CIB if: (1) the Budget Director determines that the innkeepers' tax is imposed at the maximum rate and in effect on January 1 of a year (September 1 for 2009); or (2) the city-county council raises at least \$4 M from the innkeeper's tax and the CIB issues obligations to the State Treasurer.

This bill reduces the number of appointments to the CIB by the county commissioners from two members to one member. The bill provides that one member shall be appointed to the CIB jointly by majority vote of a body consisting of one member of the board of county commissioners of each county (other than Marion County) in which a stadium and convention building food and beverage tax is in effect. 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. It also requires the CIB to submit its operating and capital budget for review, approval, or rejection to the city-county council. The bill requires the CIB to present a long-range financial plan to the city-county council before January 1, 2010. The bill also requires the State Board of Accounts (SBOA) to do a financial and compliance audit annually of the CIB. The bill also requires the CIB to submit the SBOA reports to the city-county council. It also requires the city-county council to review the SBOA reports at a public hearing and requires the city-county council to approve the issuance of revenue and general obligation bonds by the CIB. It 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. The bill also makes corresponding changes.

*Admissions Tax:* The bill authorizes an admissions tax for paid admissions to certain sports and recreational complexes 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 the state General Fund and a new state retiree health benefit trust fund.

*Division of Child Services (DCS) and Ombudsman Provisions:* This bill establishes the Office of Department of Child Services Ombudsman within the Department of Administration.

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 DCS contracts regarding collection of parental reimbursement amounts. The bill provides that DCS is not responsible for costs of child services for children placed out of state unless the director recommends or approves the placement.

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 the Office of the Secretary of Family and Social Services (FSSA), the Office of Medicaid Policy and Planning, 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 under 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. The bill also requires the Commission on State Tax and Financing Policy to study various topics. The bill requires DOR to conduct a feasibility study related to cigarette stamp design and use. It also establishes a study committee 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.

*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.

*Harvesting Grasses - State Agencies:* The bill allows the Indiana Department of Transportation (INDOT) to enter into leases of highway rights-of-way and other state agencies to enter into leases on state property, for which responsibility is assigned to the lessee for the growth, maintenance, and harvesting of grasses or other plants that are suitable for processing into fuels or other energy products.

*Golf Carts:* The bill provides that: (1) an ordinance adopted by a city or a town concerning the use of golf carts on a highway under the jurisdiction of the city or the town may not conflict with a driver's licensing requirement of another provision of the Indiana Code; and (2) that certain equipment, titling, and registration requirements do not apply when a golf cart is operated under the authority of an ordinance.

*State Road 331 Provisions:* The bill requires that a part of State Road 331 be operated as a limited-access facility.

*Earlham College Trust License Plate:* The bill authorizes the Earlham College Trust personalized license plate.

*Automated Record Keeping Fee:* The bill provides that revenue collected from the Automated Record Keeping Fee on pre-trial diversions and prosecutor deferrals is to be redirected from the State User Fee Fund to the Homeowner Protection Unit Account established within the state General Fund.

*Special Employment and Training Services Fund:* The bill makes changes to the Special Employment and Training Services Fund.

*Public Transportation Corporation:* The bill allows a public transportation corporation outside Marion County to provide service outside a municipality's corporate boundaries without charging rates that are sufficient to cover the expanded service. It repeals the requirement that the public transportation corporation hold a public hearing concerning proposed expanded service and the information related to the hearing. It also repeals a provision specifying that a motor carrier authorized to perform transportation service described

at such a hearing is eligible to provide the service if the motor carrier takes certain actions.

*Northern Indiana Regional Transportation District (NIRTD):* This bill provides for a referendum in November 2009 in Lake, Porter, LaPorte, and St. Joseph Counties for the creation of a regional transportation district in northern Indiana ("district"). The bill provides that the district is created January 1, 2010, if the voters in at least two of the counties vote in favor of the creation of the district. It specifies that the district consists of all the incorporated and unincorporated territory in those counties where the majority of those voting on the public question vote in favor of creating the district.

The bill provides for a regional funding, service area, and coordination board, a regional transportation district advisory board, a commuter rail service board (which is the Northern Indiana Commuter Rail Service Board (NICTD)), a rail service advisory board, a bus service board, and a bus service advisory board. The bill creates a rail and bus service division for the district. The bill also provides that the bus service division serves Lake County and Porter County (if the county is a member county).

If the district is established, the bill transfers authority to fund and operate a bus system from Lake County and Porter County or municipalities within Lake County or Porter County (if the county is a member county) to the bus service division, and terminates the existing transportation authorities and corporations in Lake and Porter Counties. It authorizes the bus service division to impose a property tax, including a property tax pledged before January 1, 2010, to pay for bonds, loans, other obligations, or lease rentals related to a public transportation system in Lake County or Porter County (if the county is a member county). The bill also provides that the property tax may be imposed only in the area in which the property tax could have been imposed for property taxes first due and payable in 2010. It also permits the district board to impose a regional public transportation improvement tax on the income of individuals residing in a member county and provides that the maximum improvement tax rate in any member county is 0.25%. The bill requires the improvement tax rate for capital in each member county to be based on the capital improvement needs of each member county as determined by the district board and requires the improvement tax rate for operating in each member county to be based on the number of passengers and passenger miles. The bill permits each division board to contract with the Indiana Finance Authority for issuing debt.

*Special Purpose Buses:* The bill makes changes to the driver qualifications for a special purpose bus.

*Reversion Requirements:* The bill provides that the Governor shall cause reversions of \$25,000,000 to be made from state General Fund appropriations to non-public safety agencies and programs each year of the biennium.

*Marion County Health and Hospital Corporation Project:* The bill allows the Marion County Health and Hospital Corporation to place on the ballot in November 2009 a local public question regarding a project to be financed by the issuance of bonds or the entering into of a lease.

*Enterprise Zones:* The bill extends expiration date of certain enterprise zones. It provides that an enterprise zone does not expire between December 1, 2008, and December 31, 2014, if the municipal fiscal body where the enterprise zone is located adopts a resolution requesting the IEDC board to renew the enterprise zone for an additional five years. It provides that the fiscal body of a municipality containing an enterprise zone that expired after November 30, 2008, or is scheduled to expire before September 1, 2009, has until August 1, 2009, to adopt a resolution to renew the enterprise zone. It provides that a renewal resolution must be adopted at least 30 days before the expiration date in the case of an enterprise zone scheduled to expire after August 31, 2009.

*Anderson Airport Development Zone:* This bill provides that the Anderson airport area may be designated an airport development zone by the Anderson Airport Board.

*Gary Airport Authority:* The bill authorizes the board of an airport authority established by the city of Gary to enter into a lease, management agreement, or other contract with a person to use, plan, design, acquire, construct, reconstruct, improve, extend, expand, lease, operate, repair, manage, maintain, or finance all or part of the airport and related facilities for a period not to exceed 99 years. It provides that an airport authority may enter into a lease, management agreement, or other contract concerning all or part of an airport without complying with the statute concerning BOT agreements and operating agreements. The bill also provides that if the Gary Airport Authority enters into a lease, management agreement, or other contract concerning all or substantially all of its airport, the authority shall make distributions from payments received under the lease, management agreement, or other contract in installments and on dates determined by the Gary City Council. It provides that the distributions are to be deposited in the Gary general fund.

*Northwest Indiana Regional Development Authority (RDA):* This bill requires the development board of the Northwest Indiana Regional Development Authority to separately account for money received or designated for construction, reconstruction, renovation, purchase, lease, acquisition, and equipping in a lease account separate from its general account.

The bill provides that if Porter County ceases to be a member of the Northwest Indiana RDA, the fiscal bodies of two or more municipalities located in Porter County may adopt ordinances to become members of the RDA. It provides that if two or more municipalities in Porter County become members of the RDA, the \$3,500,000 annual transfers of CEDIT revenue to the RDA continue.

*Northern Indiana Commuter Rail Service Board (NICTD):* The bill provides that a member of the NICTD board of trustees appointed or reappointed after December 31, 2009, by the county commissioners of a county must be a resident of the county that the member represents and a member of the board of county commissioners of the county that the member represents. The bill provides that for appointments or reappointments to the NICTD board of trustees after December 31, 2009, the member representing the rest of the state, the passenger member, and the employee member are all nonvoting members.

*Redevelopment Authority:* The bill allows the members of the board of directors of a redevelopment authority to be residents of or have their place of employment within the unit that created the redevelopment authority, under certain circumstances.

*Redevelopment Commission:* The bill permits a redevelopment commission, or two or more commissions acting jointly, to contract for educational programs, work training programs, worker retraining programs, and other programs designed to prepare individuals to participate in the competitive and global economy. It requires a redevelopment commission to make certain findings before entering into such a contract. The bill provides that, subject to certain limitations, a redevelopment commission may use any revenues legally available to the commission to fund such a program and it specifies that the term "commission" refers to a redevelopment commission.

**Effective Date:** Upon passage; July 1, 2001 (retroactive); January 1, 2008 (retroactive); October 1, 2008 (retroactive); December 1, 2008 (retroactive); December 30, 2008 (retroactive); January 1, 2009 (retroactive); March 1, 2009 (retroactive); July 1, 2009; January 1, 2010; March 1, 2010; July 1, 2010; January 1, 2011.

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

*State Appropriations:* The following table provides a summary of state appropriations during FY 2010 and FY 2011. Tobacco Master Settlement Agreement appropriations are presented after the state appropriations table.

<b>Category</b>	<b>FY 2010</b>	<b>FY 2011</b>
General Government	\$500,964,236	\$519,796,015
Corrections	678,977,695	693,251,380
Other Public Safety	101,794,671	102,445,723
Conservation and Environment	87,156,798	87,151,798
Economic Development	57,227,503	56,727,503
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)	1,034,610,588	1,034,615,252
Higher Education	1,725,047,566	1,754,481,203
Education Administration	17,203,754	17,203,754
Tuition Support - GF/Tuition Res. Trans.	6,420,765,650	6,558,700,000
Social Security - Teachers	2,403,792	2,403,792
Teacher's Retirement - GF	676,806,248	704,298,497
Other Local Schools and Education	332,938,833	301,638,833
Distributions [4]	249,753,902	179,753,902
<b>Total Operating</b>	<b>\$13,477,149,006</b>	<b>\$13,916,838,619</b>
Construction - Higher Ed	0	0
Construction - Other	209,641,707	209,641,693
<b>Total Construction</b>	<b>\$209,641,707</b>	<b>\$209,641,693</b>
<b>Total (Oper. + Const.)- GF</b>	<b>\$13,686,790,713</b>	<b>\$14,126,480,312</b>
BIF	\$15,270,983	\$15,270,983
Other Dedicated - Operating	1,898,434,343	1,933,379,800
Other Dedicated - Construction	37,521,676	37,521,672
Tobacco Settlement [1]	153,502,601	155,068,190
Federal (Non-ARRA)	991,741,640	991,741,640
Federal - ARRA(a) [2] [3]	75,778,152	90,878,915
Federal - ARRA(b) [4]	19,000,000	19,000,000
Federal - Other ARRA	339,141,920	339,141,920
<b>Total Other</b>	<b>\$3,530,391,315</b>	<b>\$3,582,003,120</b>
<b>Total - All</b>	<b>\$17,217,182,028</b>	<b>\$17,708,483,432</b>
[1] Includes \$3,000,000 appropriation to IFA for A&E for Gary Trauma Care Center for FY 2010.		
[2] Includes SEC. 36 appropriations of ARRA(a) funds of \$52,458,713 for FY 2010 and \$67,559,476 for FY 2011 and SEC. 37 appropriations of \$46,638,877 for the biennium for state universities.		
[3] Not included in the table are retroactive appropriations of ARRA(a) funds in SEC. 36 of \$13,225,143 and \$31,035,050 in SEC. 37 for state universities.		
[4] Up to \$150 M of ARRA(b) funds are included as Homestead Credit distributions.		

<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
Bureau of Developmental Disabilities Services - Operating	1,869,887	1,869,887
Crisis Management	4,136,080	4,136,080
Outreach - State Operating Services	2,232,973	2,232,973
Residential Services for Developmentally Disabled Persons	17,229,000	17,229,000
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
Indiana Finance Authority - Gary Trauma Care Center	3,000,000	0
Tobacco Use Prevention and Cessation Program	10,859,308	10,859,308
<b>Total Tobacco Settlement Funds Appropriated</b>	<b>153,502,601</b>	<b>155,068,190</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 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>Biennium</b>
ARRA(a) *	Various	\$44,260,193	\$52,458,714	\$67,559,476	\$46,638,877
ARRA(b) **	Various	-	1,000,000	1,000,000	36,000,000
ARRA(b) ***	State Auditor	-	110,000,000	35,000,000	
Other ARRA	INDOT	-	-	-	\$678,283,841
<b>Total Appropriations</b>		<b>44,260,193</b>	<b>\$163,458,714</b>	<b>\$103,559,476</b>	<b>\$760,922,718</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).

\*\*\* ARRA(b) funds appropriated to the State Auditor for the purpose of making additional Homestead Credit distributions from HEA1001(2008). Total allocation is to be based on the State Budget Agency's determination of the ARRA(b) funds available.

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

	<b>Eligible for Fee Replacement</b>	<b>Total Project</b>
Purdue University		
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
IUPU at Fort Wayne NE Indiana Innovation Center	10,000,000	10,000,000
North Central Campus Student Services Center	23,700,000	30,000,000
Vincennes University		
Davis Hall	850,000	850,000
P.E. Building	5,000,000	5,000,000
Indiana State University		
Federal Building	10,000,000	20,000,000
Indiana University		
IU Northwest Regional Campus Tamarack Hall	33,000,000	33,000,000
IU Southeast Education and Technology Building	22,000,000	22,000,000
Cyber Infrastructure	16,000,000	35,700,000
Life Sciences Laboratory Renovations	10,000,000	10,000,000
IUPUI		
Neurosciences Building	23,000,000	33,000,000
Life Sciences Laboratory Renovations	10,000,000	10,000,000
Ivy Tech Community College		
Anderson Campus	20,000,000	20,000,000
Bloomington Campus	20,000,000	20,000,000
Gary Campus	20,000,000	20,000,000
Warsaw Campus	10,100,000	10,100,000
Elkhart Phase I Add'l Authorization (Above 2007)	4,000,000	4,000,000
University of Southern Indiana		
Teacher Theater Replacement Project	8,000,000	15,000,000
Ball State University		
Central Campus Rehabilitation	19,700,000	19,700,000
<b>Total Bonding</b>	<b>281,350,000</b>	<b>475,150,000</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 \$281.35 M of bonding authority would be about \$22.58 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 per campus, except for Ivy Tech Community College which is limited to \$45 M for all its campuses. 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). There are seven state educational institutions with approximately 32 campuses.

*Vincennes TRF Payments:* The bill provides that Vincennes University is not required to make employer contributions to the Teachers' Retirement Fund for employment periods July 1, 2001, through June 30, 2009, for Vincennes University's employees who are members of the pre-1996 Plan. TRF has estimated that the omitted payments total approximately \$8 M, not including interest. It also provides for a phase-in beginning July 1, 2009, of employer contributions for those employees. The annual Vincennes contribution should amount to approximately \$1 M per year. A phase-in period beginning July 1, 2009, provides for partial payments until Vincennes is paying 100% of their employee contributions. TRF calculates the estimated impact of this relief to be \$3.8 M.

#### 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 \$4,550 in CY 2010 and \$4,505 in CY 2011, and the free and reduced lunch funding level in the complexity index is reduced from \$2,400 to \$2,263 for CY 2010 and \$2,241 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 \$25 in CY 2010 and \$75 in CY 2011 from the 2009 regular programs funding per ADM. The grant also limits the reduction in regular programs funding per ADM to \$25 in CY 2010 and \$75 in CY 2011 from the CY 2009 level. The grant also has a provision for an additional amount up to \$220 per ADM in 2010 and \$350 per ADM in 2011 if the school has at least a 3% reduction in regular support after the first portion of the restoration grant. The formula has a provision for a grant of up to \$192 or \$91, depending on whether a school has fewer than 1,700 students and the complexity index is at least 1.1.

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.

	<b>CY 2009</b>	<b>CY 2010</b>	<b>% Diff</b>	<b>CY 2011</b>	<b>% Diff</b>
<b>State Regular</b>	5,145,878,710	5,740,544,061	11.6%	5,674,885,876	-1.1%
<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%	93,067,068	3.7%
<b>Prime Time</b>	121,694,902	123,585,338	1.6%	128,838,997	4.3%
<b>Honors</b>	17,143,200	18,029,473	5.2%	18,029,473	0.0%
<b>Restoration 2009</b>	0	80,894,467		157,454,582	94.6%
<b>ARRA</b>	609,999,093				
<b>Total</b>	6,476,392,157	6,548,810,077	1.1%	6,568,406,150	0.3%

*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 only 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 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. The Department of Education would establish a pilot virtual program serving up to 200 students in 2010 and 500 students in 2011 for 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.

*School Consolidation:* The bill requires Prairie Township School to consolidate with an adjacent school corporation before January 1, 2011. 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. The bill appropriates \$3.8 M annually to the Fund.

*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.

*Student Test Number Information:* The bill also requires the DOE to maintain student test number information in a manner and form that permits authorized personnel to review the information at any time and accurately determine where each student is enrolled and the number of students enrolled in the school corporation or charter school. The department would have to create a system where schools would report when a student enrolls or leaves a school. The main cost would be in developing the database, which would be developed within existing resources.

*School Formula Study Committee:* The bill provides that the Legislative Council is to establish a two-year study committee to study issues related to the school formula. The committee 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.

#### 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 State Budget Agency (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 it's 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.

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. This bill makes the distribution from AARA(b) funds instead of the General Fund. The bill also requires the state 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.

#### 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 \$145,400 for each of 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 also changes the distribution of Cigarette and Tobacco Tax revenue and provides that 5.74% of the tobacco tax 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 \$28 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:* The bill will exempt DCS from paying for services to any out-of-state placements made by a juvenile court that the director or the director's designee do not recommend or approve. Any decrease in expenditures is unknown. Currently, a juvenile court must obtain approval from the director of DCS, or the director's designee, in order to place a child in need of services or a juvenile delinquent in a facility or home located outside the state.

*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 be staff by the Department of Transportation. Legislative members are entitled to per diem and travel expenses. The other members are not entitled to per diem and travel expenses if the authority or governmental agency that employs them provides reimbursement.

The Commission is to file an annual report with the Legislative Council in an electronic format by November 1 of each year. 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 (RDF) 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 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. 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.

This bill also allows counties to obtain loans from the RDF to cover expenses caused by the damage to or destruction of voting machines in a natural disaster. These loans must be repaid within six years, and the interest rate would be set by the State Board of Finance. The loan proceeds must be used to replace damaged voting equipment and may not be used to equip voting centers.

Also, the City of LaPorte would be able to obtain a loan from the RDF to cover expenses caused by a delay in collecting 2008 and 2009 property taxes. The loan may not exceed the 2008 and 2009 uncollected property tax revenue and must be repaid within six years. The interest rate would be set by the State Board of Finance. The latest certified levy for LaPorte City was \$8.7 M in 2006. Based on that amount, the total of the 2008 and 2009 levies (and the limit of the loan amount) are estimated at \$19.0 M.

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 voting members are: (1) the chairman and ranking minority member of the Senate

Appropriations Committee; (2) the chairman and ranking minority member of the House Ways and Means Committee; (3) the chairperson and ranking minority member of the Senate Committee on Commerce; and (4) the chairperson and ranking minority member of the House Committee on Public Policy. Two individuals who are not members of the General Assembly are nonvoting members. These two members must have experience or training in financial matters. The committee will operate under the rules established by the Legislative Council for interim committees.

I-Light Fiber Optic Network Study - A study committee will be appointed by the Legislative Council to study and report by November 1, 2009, on the I-Light Fiber Optic Network. 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 I-Light Fiber Optic Network provides connections among several state universities, 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.

DOR Study of Tracking Cigarette Stamps - The bill requires a feasibility study by the Department of State Revenue of the benefits of changing the design and method for verifying, tracking, and tracing cigarette stamps. The DOR is to pay for the study from unrestricted funds that are otherwise available to the DOR and report the results to the Legislative Council by November 1, 2009.

*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.

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.

*Harvesting Grasses - State Agencies:* The specific impact will depend upon the complexity of the leases and the number of leases involved.

*State Road 331:* INDOT reports that the State Road 331 project is an active project. The bill allows for nine intersections along the corridor. The bill also prohibits INDOT or any political subdivision from authorizing any additional curb cuts or intersections after January 1, 2009, on the designated highway. [INDOT notes that there is an existing intersection with the Toll Road entrance/exit that is within the limits of the project and not listed in the bill, along with some other limited access openings. INDOT has an existing contract with private parties to allow access across from the Toll Road access. However, it is not clear if these will be impacted by the provisions of the bill.]

*Earlham College Trust License Plate:* Prison Enterprise Network (PEN PRODUCTS), manufacturing and sales arm of prison-made products, charges the BMV for the manufacture of license plates. PEN PRODUCTS will charge the BMV \$3.19 per plate for single-color printing under the digital license plate system. The charge for multi-color printing is \$3.69 per plate

The bill establishes the Earlham College Trust Fund. The BMV is to administer the fund, and expenses of administering the fund are to be paid from the fund. Money in the fund is continuously appropriated and is to be distributed annually to Earlham College. Money in the fund at the end of a state fiscal year does not revert to the state General Fund.

*Special Employment and Training Fund:* Current law allows the Commissioner of Workforce Development to allocate up to \$2 M annually for pre-apprenticeship and apprenticeship training and counseling assistance relating to the construction trades. The bill requires the use of \$700,000 annually for training and counseling assistance for individuals who have been unemployed for at least four weeks and who earn less than \$20,000. Of the \$700,000, \$400,000 would be for training and counseling services provided by Hometown Plans and \$300,000 for training and counseling services to enable individuals to apply for admission to apprentice programs. [The Special Employment and Training Services Fund as of June 16, 2009, had a balance of about \$16.5 M and had received about \$7.1 M in interest and penalties from employers delinquent in unemployment taxes.]

*Northern Indiana Regional Transportation District (NIRTD):* The DOR will incur additional expenses to revise tax forms, instructions, and computer programs to implement collection of the regional transportation improvement income tax. Also, the State Budget Agency is to provide assistance to the NIRTD Board in computing the appropriate tax rates for each member county if a regional transportation improvement income tax is imposed. These additional responsibilities are expected to be within the DOR's and SBA's existing level of resources.

*Reversion Requirements:* The bill provides that the Governor shall cause reversions of \$25 M to be made from state General Fund appropriations to non-public safety agencies and programs each year of the biennium.

*Whistle Posts:* The bill (1) requires a railroad company to erect a sign that is: (A) visible from an approaching train; and (B) not more than 1/4 mile in advance of a crossing or multiple consecutive crossings (except a crossing subject to a local whistle ban) to notify the operator of the engine to sound the locomotive's whistle; (2) requires the railroad company to maintain the sign in good repair or replace the sign; (3) requires the engineer or other person in charge of the train to notify the railroad in writing of any missing or damaged whistle post, and gives the railroad 10 days to replace or repair the whistle post; (4) provides that a railroad company that violates these requirements is liable to the state for a penalty of at least \$250 but not more than \$1,000 to be recovered in a civil action brought by the state in the circuit or superior court of the county where the crossing is located; and (5) makes technical changes. Providing for a civil action brought by the

state for violation of these provisions may increase the work load of the Attorney General's office. Any additional expenditures will depend on the number of such cases and the resources required to pursue the case. The fund affected is the state General Fund.

**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 FY 2011. The length of the advances would be extended for an additional two years, so the state impact would be minor. Charter schools have outstanding Common School Fund loans of about \$45.8 M. The interest on the loans at 4% would be about \$1.83 M annually.

**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 the 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 the 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 provides that a taxpayer who is determined by the DOR or a court (under the Tax Court's decision in the RDI case) to have overpaid income tax on the taxpayer's pass through income in years prior to 2009 must have the overpayment applied against the taxpayer's annual tax liability in lieu of receiving a refund. The bill would allow the crediting of prior-year overpayments against tax liabilities beginning in 2009 and continuing through tax year 2018. The bill prohibits the refund of any remaining overpayment amount at the end of the tax credit period. The bill also allows the DOR to provide refunds relating to small overpayments that do not exceed a dollar threshold established by the DOR. This tax credit arrangement will redistribute the impact of the refunds for prior overpayments potentially over 10 years. It could also mitigate the total amounts paid back by the state depending on the future tax liabilities of taxpayers who receive tax credits for prior year overpayments.

*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 \$2.5 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 5,000 individuals or corporations donate \$1,000 each, then the revenue loss would be \$2.5 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 787 students could receive support from contributions of \$5 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.

*Gaming License Transfers:* The bill prohibits the Indiana Gaming Commission (IGC) and the Indiana Horse Racing Commission (IHRC) from doing either of the following:

- (1) Imposing by rule a fee not authorized by statute on any party to a proposed transfer of an ownership interest in a pari-mutual horse racing permit, a riverboat casino owner's license or operating agent permit, or a racetrack slot machine facility license;
- (2) Make the IGC's or IHRC's approval of a transfer of such a license or permit contingent upon payment of any amount not authorized by statute.

The IGC and IHRC adopted rules in 2007 requiring payments to be made to the state by persons transferring an ownership interest in a pari-mutual horse racing permit, a riverboat casino license or operating agent permit, a racetrack slot machine facility license, or a supplier's license. The IGC rule is no longer in effect, but the IHRC rule remains in effect. Any future fiscal implications of prohibiting the IHRC from continuing to impose a transfer fee or contingent payment are indeterminable because the frequency of future ownership transfers is unpredictable.

*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 reduces the limit on total credits allowed annually under the Media Production Tax Credit from \$5.0 M to \$2.5 M per fiscal year. This change is effective beginning in FY 2010. It is estimated that this change could reduce the revenue loss to the state General Fund from this tax credit by \$2.5 M each year in FY 2010, FY 2011, and FY 2012. Under current statute unchanged by the bill, the credit sunsets on January 1, 2012.

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 taxpayers 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.

*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 a new Class A misdemeanor, interference with an investigation of an Office of the Department of Child Services Ombudsman. 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.

*State Retiree Health Benefit Trust Fund:* The bill changes the distribution of Cigarette and Tobacco Tax revenue and provides that 5.74% of the tobacco tax 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 \$28 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.

*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.

*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.

*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.

*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 one of the following conditions is satisfied:

- (1) The Marion County innkeeper's tax increase authorized by the bill for the fund is in effect (see *Explanation of Local Revenues*).
- (2) The innkeeper's tax increase is generating at least \$4 M per year, and the State Treasurer has invested in obligations of the CIB pursuant to the bill. (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.

*PSDA Changes for Counties Other Than Marion County:* The bill makes two changes to current statute governing PSDAs in counties other than Marion County. The changes could reduce state General Fund revenue by as much as \$2.15 M annually.

(1) The bill increases the state revenue capture limit for a PSDA in South Bend from \$5 per person in the city to \$6.50 per person in the city. This change would increase the amount of state income tax and state sales tax that the South Bend PSDA could capture each fiscal year from \$538,945 to \$700,629 beginning in FY 2010.

(2) The bill permits a county or city with a PSDA (other than Marion County) to expand the PSDA after June 30, 2009, to include a hotel of its designation. The expansion must be done by resolution of the designating body, reviewed by the Budget Committee, and approved by the State Budget Agency. Depending on whether existing PSDAs expand to include a hotel or hotels, this change could potentially increase the amount of state General Fund transferred each year to the PSDAs in Allen County, Evansville, and South Bend. In FY 2008, the PSDAs in Allen County, Evansville, and South Bend captured \$1,659,245, \$428,449, and \$67,106 in state income and sales taxes, respectively. The current capture limits are \$3.0 M for Allen County, \$607,910 for Evansville, and \$700,629 for South Bend (pursuant to the change described in (1) above).

*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	OAF Collections	State Benefit from:		Total
		Extension of OAF	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.

*Harvesting Grasses - State Agencies:* The agencies must decide on the value of the land to be leased. Revenues accruing to the agencies will depend upon the determined value of the land for the specified purposes. Leases are to be awarded to the highest bid for a particular lease. The lessee is responsible for planning, maintaining, and harvesting the vegetation at the lessee's cost. Leases are to be for a maximum of four years.

*Earlham College Trust License Plate:* The bill establishes a \$25 fee for the new license plate. Revenue from the new plate is unknown. In CY 2008, sales of special recognition license plates ranged from 74 plates for the Pearl Harbor plate to 53,267 for the Heritage Trust plate. Plate sales for the new plate are likely to fall within this range and could result in annual revenue to the Earlham College Trust Fund ranging from \$1,850 to \$1.33 M.

In addition, there is a \$15 Special Recognition fee. Revenue from the Special Recognition fee for the Pearl Harbor plate totaled \$1,110, while revenue from the same fee for the Heritage Trust plate amounted to \$799,005. The following tables show the distribution of the Special Recognition fee based on the CY 2008 sales of the Pearl Harbor plate and the Heritage Trust plate and the uses of the distributed funds.

<b>Minimum and Maximum Distribution of Estimated Special Recognition Fee Revenue.</b>				
<b>Plate Type</b>	<b>MVHA (\$5)</b>	<b>Xrds 2000 (\$1)</b>	<b>BMVC (\$9)</b>	<b>Total (\$15)</b>
Earlham College (if 74 plates sold)*	\$370	\$74	\$666	\$1,110
Earlham College (if 53,267 plates sold)*	\$266,335	\$53,267	\$479,403	\$799,005
* Estimates based on CY 2008 sales of Pearl Harbor plates and Heritage Trust plate.				
MVHA - Motor Vehicle Highway Account				
Xrds 2000 - Crossroads 2000				
BMVC - Bureau of Motor Vehicle Commission				

<b>Fund</b>	<b>Uses</b>
<b>MVHA</b>	Construction, reconstruction, and maintenance, along with supporting the BMV, the State Police, the Dept. of Transportation, and the State Department of Revenue.
<b>Crossroads 2000 Fund</b>	Bonding for highway projects.
<b>BMV Commission</b>	Supports the operation of the license branches throughout the state.

*Automated Record Keeping Fee:* The bill redirects the fee revenue from the Automated Record Keeping Fee (ARK Fee) from the Judicial Technology Automation Project Fund to the Homeowners Protection Fund. This is estimated to result in an estimated \$700,000 shift from the State User Fee Fund to the Homeowners Protection Fund in 2010. (Although it is reported that the collection of the ARK fee for pre-trial diversion and deferral cases has been inconsistent in the past, recent State Board of Accounts directives have indicated

to court clerks that the fee is to be collected. Thus, the impact represents a shift in or redirection of future collections.)

The \$7 ARK fee is assessed on all plaintiffs in civil actions; all defendants who are found or plead guilty in criminal cases, infractions, and ordinance violations; and when defendants agree to enter into either a diversion or deferral program. According to the 2007 Indiana Judicial Report, 100,196 cases were deferred or diverted in CY 2007. The ARK fee is \$7 until 2012 when it will be reduced to \$4. The estimated revenue that would be redirected from the Judicial Technology and Automation Project is \$700,000 when the ARK fee is \$7 and \$400,000 when the fee is \$4.

*Anderson Airport Development Zone:* This bill provides that the Anderson airport area may be designated as an airport development zone by the Anderson Board of Aviation Commissioners, effective July 1, 2009. If so designated, several tax incentives would be available for the Anderson airport area that are available to enterprise zones, including the Employment Tax Deduction, the Employment Expense Credit, the Loan Interest Credit, the Neighborhood Assistance Credit, and the Investment Cost Credit. These incentives may be taken against the AGI, Financial Institutions, or the Insurance Premiums Tax liabilities, which would reduce revenue to the General Fund by an indeterminable amount. Current statute (IC 8-22-3.5-1) authorizes the following areas to establish airport development zones: Marion County, City of Gary, Vigo County, Allen County, Vanderburgh County, and Delaware County.

*Enterprise Zones:* This bill permits the fiscal body of a municipality in which an enterprise zone is located to request that its current term be renewed for an additional five years. Enterprise zones are eligible for certain tax incentives that reduce revenue to the General Fund. If the term is renewed the revenue to the state would continue to be reduced during this period.

*Northern Indiana Regional Transportation District:* Property, revenue, and bonds of the NIRTD, the Rail Service Division (RSD), and the Bus Service Division (BSD) are exempt from state taxation, except for the Financial Institutions Tax or the state Inheritance Tax.

*Whistle Posts:* Providing for a penalty of at least \$250, but not more than \$1,000, may mean additional revenues for the state, depending on the number of violations which occur and the penalty assigned to the violation. The fund affected is the Common School Fund. Any additional revenue is likely to be small.

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

*ARRA Provisions:* 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. To the extent that it does not conflict with federal law or guidelines, the funds are to be used for the following:

1. Repair and rehabilitation of facilities.
2. Upgrading technology or equipment.
3. Training or professional development.
4. Programs and purposes for which the expenses are one time in nature.

The impact on the school use of AARA funding would probably be minor.

*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 some 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.

*Teacher Evaluations:* The bill also removes the prohibition on the use of ISTEP tests in educator evaluations if it is required for a school to qualify for federal funds. The collective testing results cannot be the sole factor to evaluate educators. The impact would probably be minor and would depend on if schools choose to use the test results in educator evaluations.

*Gaming Revenue for School Projects:* The bill allows a city or county 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 in the county.

*Special Purpose Bus Drivers:* The bill would remove the requirement that a special purpose bus driver has to have a physical examination certificate. The driver would still have to have a valid operator's, chauffeur's, public passenger chauffeur's, or commercial driver's license. The provision should have no fiscal impact. The current physical is paid by the driver.

#### 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 the bill, bonds issued for a hospital for the Marion County Health and Hospital Corporation would not be subject to the current 20-year maximum term for bonds.

*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.

*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 of the CIB and imposes several new requirements on the CIB. Under current statute, the CIB is composed of nine members (six appointed by the Mayor of Indianapolis, two appointed by the Marion County Board of Commissioners, and one appointed by the Indianapolis-Marion County City-County Council). The bill reduces the number of members appointed by the Marion County Board of Commissioners from two to one and provides for that member to be appointed by a body consisting of one member of the board of county commissioners of each of the donut counties 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.

*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 counties that had an aggregate balance of at least \$10 M in the two funds on April 1, 2009, 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 to be used for public safety. Two counties, Lake and St. Joseph, had actual cash balances on April 1, 2009, that exceeded \$10 M. These two counties would be eligible to distribute the final unused balances under this provision.

*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.

*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.

*Industrial Facilities:* Under current law, county assessors must provide a list of industrial properties to the DLGF each year in which a general reassessment begins. Under this bill, the list would be required annually.

*Public Safety Pension Funds:* Beginning in CY 2009, the state assumed the cost of pension benefits for the pre-1977 public safety pension funds. This provision expands the use of local units' cash balances in the 1925, 1937, and the 1953 Police and Firefighters Funds to pay the costs of health insurance or other health benefits provided to members, survivors, and beneficiaries of the funds involved in addition to the unit's employer contributions to the 1977 Police Officers' and Firefighters' Pension and Disability Fund (currently 19% of covered payroll) and the contributions paid by the unit for a member of the 1977 Police Officers' and Firefighters' Pension and Disability Fund.

The maximum amount that may be used for the above purposes is:

- (1) the unencumbered balance of the funds involved as of December 31, 2008; plus
- (2) property taxes imposed for the funds prior to 2009, but received after 2008.

As of December 31, 2008, 40 of 128 units involved with members in the three funds, reported balances totaling approximately \$26.9 M in their local funds. In addition, there are balances of \$7.2 M in state accounts held for local unit pensions. The total of \$34.1 M (and possibly more from nonresponding taxing units) would be available for the expanded uses.

*Automated Record Keeping (ARK) Fee:* The transfer of revenue from the Judicial Technology Automation Project Fund to the Homeowners Protection Fund would likely require front-end costs for county clerks and auditors. Under current law, all revenue from the ARK fee is deposited in the State User Fee Fund. Since clerks would need to redirect revenue collected from the ARK fee when paid by persons who enter diversion or deferral programs, clerks in each county would need to develop a protocol with their computer vendors for ensuring that this portion of ARK fee revenue would be deposited in the Homeowners Protection Fund.

*Marion County Health and Hospital Corporation Project:* The Marion County Election Board may have to prepare a public question for the Health and Hospital Corporation of Marion County. Expenses to run an election include precinct election board per diem, rental of a facility for polling (if necessary), and/or voting equipment (if necessary). Based on a small sample of Indiana counties, per diem for election board members range from \$65 to \$160 for inspectors and from \$40 to \$100 for judges, clerks, and sheriffs.

*Northern Indiana Regional Transportation District:* Each of four counties (Lake, LaPorte, Porter, and St. Joseph) will vote in a special election on November 3, 2009, on whether to create the NIRTD. A minimum of two counties must agree to the public question for the NIRTD to take effect. If the NIRTD is created, the bill will have indeterminate fiscal impact depending on the actions of NIRTD, the RSD, and the BSD; their method of funding; and the projects, contracts, mergers or leases undertaken.

The bill establishes three entities (NIRTD, the RSD, and the BSD) that are each a body corporate and politic, separate from the state and other political subdivisions. The NIRTD board has 10 members, and the NICTD board is the board of the RSD. The BSD provides service only in Lake County or Porter County, if these counties join the NIRTD, and its board is comprised of one member from each county appointed by the county fiscal body, plus one mayor from each city in the counties with a population greater than 25,000. Advisory boards are also created for each entity.

NIRTD is to report to the Legislative Council, the Budget Committee, and the Governor concerning the operations and activities of the district during the calendar year by April 1 of each year. The NIRTD is to develop, continuously update, and implement a long-range comprehensive strategic plan that ensures the orderly development and maintenance of an efficient system of public transportation within the district, which is submitted to the Budget Committee by January 1 of the second year following the year that the district is established. Under procedures already in statute, the NIRTD may procure a condemnation of property.

A service division may acquire or construct, and operate public transportation facilities or enter into operating agreements for the facilities. The service divisions may issue bonds through contract with the IFA; acquire real, personal, or mixed property; receive gifts, donations, bequests, and public trusts, and federal or state aid; comply with federal statutes and rules concerning expenditure of federal money; use money not otherwise pledged for a local match of federal funds; and set and collect charges and rents. The bill also

contains full and complete authority for leases by a service division, and it allows for the service divisions to enter into common wall agreements concerning easements or licenses.

*Northwest Indiana Regional Development Authority:* The bill provides that Porter County would continue to transfer \$3.5 M in CEDIT revenue to NIRDA if Porter County opts out of NIRDA and at least two municipalities in Porter County become members. If at least two municipalities do not join NIRDA, the CEDIT revenue would be available for distribution to the county or to cities and towns in the county.

*Redevelopment Commission:* Under this proposal, two or more redevelopment commissions may jointly contract with an entity to provide educational, work training, worker retraining, and other related programs. A commission may spend legally available revenues for this purpose. However, the use of TIF proceeds would be limited to 15% of the proceeds, and the bill would prohibit the use of bond proceeds for this purpose.

Currently, if the amount of allocated assessed value in a TIF area exceeds the amount necessary to generate sufficient funds to meet obligations, then the excess AV must be reallocated to the affected taxing units. The reallocation of AV to the taxing units reduces tax rates and increases revenues in cumulative funds. The expanded scope of use for TIF proceeds in this bill could reduce the amount of excess AV available for re-allocation.

**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, beginning with taxes payable in 2010, 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) is unoccupied. The treatment as inventory would apply whether the mobile home is new or used. 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.

*Assessment Justification:* 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 5% 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.

*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.

*Mortgage and Standard Deduction Filing:* Under current law, an application for a mortgage or standard deduction may be filed at any time within a calendar year and takes effect with the taxes payable in the following year. This bill would extend the filing deadline to January 5<sup>th</sup> of the year in which the taxes are payable.

*Standard Deduction - Eligibility:* Under current law, the standard deduction may be claimed by an individual or by a trust. This bill would also permit other entities to claim the deduction if (1) the individual residing on the property is a shareholder, partner, or member of the entity that owns the property, and (2) the property was eligible for the standard deduction under this definition on March 1, 2009.

If this provision results in an increase in the number of eligible taxpayers, then the newly qualified taxpayers would receive homestead benefits. The additional deductions would shift a part of the tax burden from the newly qualified taxpayers to all other taxpayers. The county-funded credits received by these taxpayers would, for the most part, reduce the amount credited to existing homeowners. The lower tax cap would reduce property tax collections for taxing units where net taxes for some homesteads exceed the 1% circuit breaker cap.

In many cases, this bill would grandfather in taxpayers who are organized as a non-individual entity and who may already be receiving homestead benefits.

*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: Innkeepers Tax/PSDA Expansion -* The bill allows Marion County to: (1) increase the innkeepers tax from 9% to 10% beginning September 1, 2009; and (2) capture up to \$8 M annually in state income tax, state sales tax, and COIT from an expansion of the Marion County PSDA (see *Explanation of State Revenues* for discussion of this change). The bill does not provide for a termination date for these two revenue sources. The bill requires the revenue from these two sources to be distributed to the Sports and Convention Facilities Operating Fund and used only for operating

expenses of capital improvements that the CIB operates. The estimated revenue impact of these two changes is summarized in the table below.

Sources (in millions)	FY 2010	FY 2011	FY 2012
Marion County PSDA Expansion	\$8.0	\$8.0	\$8.0
Innkeepers Tax Increase (1%)	2.9	4.0	4.2
<b>Total</b>	<b>\$10.9</b>	<b>\$12.0</b>	<b>\$12.2</b>

The estimates on the innkeepers tax assumes nine months of collections from the increased rate in FY 2010. Actual revenue from the rate increase 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.

State Loans to Marion County CIB - The bill authorizes the State Treasurer to invest up to \$9M annually in obligations of the CIB in CY 2009, CY 2010, and CY 2011. The duration of the investment must be for 10 years and repayment may not start before January 1, 2013. The bill provides that the State Treasurer set the interest rate on the investment. The CIB is authorized to use any source of revenue to pay the obligations. The bill provides that if the CIB fails to make any payments on the obligations, the amount payable must be withheld by the State Auditor from any other money payable to the CIB.

Admissions Tax/Auto Rental Tax - The bill allows Marion County to increase the county admissions tax and the supplemental auto rental excise tax between January 1, 2013, and March 1, 2013. The earliest that either tax could be effective would be February 1, 2013. The bill allows the county admissions tax to be increased by a maximum of 4%, from 6% to 10%, and the supplemental auto rental excise tax by a maximum of 2%, from 4% to 6%. The bill does not provide for a termination date for these two revenue sources. The bill requires the revenue from these two sources to be distributed to the Sports and Convention Facilities Operating Fund and used only for operating expenses of capital improvements that the CIB operates.

*PSDA Changes for Counties Other Than Marion County:* See *Explanation of State Revenues* for discussion of changes and the potential revenue gain to existing PSDAs in Allen County, Evansville, and South Bend.

*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.

*Northern Indiana Regional Transportation District:* The NIRTD Board may impose a Regional

Transportation Improvement Income Tax on the adjusted gross income of individuals who are residents of one of the member counties. The NIRTD Board would determine the improvement tax rate for each county up to a maximum rate of 0.25%. The improvement tax must be used for capital improvement and operating costs of the NIRTD, and each county's rate must be sufficient to pay the operating cost and capital cost allocated to that county by the NIRTD Board. The bill provides that operating costs paid by the improvement tax must be allocated among the member counties based on the total passengers and total miles traveled by individuals using public transportation within each county. Capital costs paid by the improvement tax are to be allocated among the member counties based on the benefits received from the capital cost by each county.

The NIRTD Board may adopt a resolution to adjust the improvement tax rate of a county if it is insufficient to pay the operating and capital cost allocated to that county. The improvement tax is in effect from October 1 to September 30. To impose, increase or decrease, or rescind the improvement tax effective October 1st, the NIRTD Board must adopt a resolution to do so between March 31 and August 1 of the same year. The estimated yield from a 0.25% improvement tax in each member county is summarized in the table below. These estimates indicate the potential yield from the tax on member county residents.

County	CY 2011	CY 2012
Lake	\$22.4 M	\$23.0 M
LaPorte	\$5.2 M	\$5.3 M
Porter	\$12.6 M	\$13.2 M
St. Joseph	\$15.3 M	\$16.0 M
Total	\$55.5 M	\$57.5 M

The BSD may also impose a property tax to the extent that the property was pledged before January 1, 2010, to pay for bonds, loans, other obligations, or lease rentals. The power to impose a property tax to fund public transportation systems by an agency that transfers its powers to the BSD terminates on July 1, 2010. Any delinquent property tax collections transfer to the BSD.

In 2008, Gary Public Transportation levied \$2.7 M for its general fund and \$1.4 M for debt. Gary Public Transportation's debt levy would continue until the debt is repaid. The elimination of the transportation general fund property tax levies in Gary would cause a reduction in circuit breaker losses for taxing units in Lake County in an amount that is less than the \$6.4 M levy.

*Public Transportation Corporations:* Certain required public hearings concerning expanded service areas would be repealed under the bill, which may reduce some costs for establishing new service routes. The bill may allow more motor carriers to provide expanded services than before. Currently, expanded services may only be offered if the rate or compensation is sufficient to cover the costs of the service, but through this provision any expanded service may be offered within available funding levels.

*Enterprise Zones:* Under current law, the federal government and the board of the IEDC may designate certain areas within Indiana as enterprise zones. An enterprise zone expires after ten years but is eligible for two five-year renewals based on performance reviews by the IEDC Board. The enterprise zone may not be renewed after the expiration of the second five-year period.

Under this bill, if the enterprise zone is due to expire between December 1, 2008, and December 31, 2014, the IEDC Board shall renew the enterprise zone for an additional five years if the fiscal body of the municipality in which the enterprise zone is located adopts a resolution requesting the Board to do so. An enterprise zone that is on its second and final five-year renewal under current law may only be renewed for one additional five-year term under this bill.

The renewal resolution must be adopted within 30 days of the expiration date. If, however, the enterprise zone expired after November 30, 2008, or is scheduled to expire before September 1, 2009, the fiscal body must adopt the resolution to renew and submit a copy to the Board before August 1, 2009.

The fiscal impact of this proposal depends on whether the fiscal body of the municipality decides to request a renewal of the current term for the enterprise zone. If the term is renewed, qualified employees within the enterprise zone would continue to receive the employee tax deduction, and businesses would also continue receiving the enterprise zone property tax deduction. On the other hand, taxing units in which enterprise zones are located would continue to experience a minimal reduction in revenue from COIT and CEDIT during this additional five-year term.

*Anderson Airport Development Zone:* If the Anderson airport area is designated as an airport development zone, businesses located in the zone will have to pay a fee equal to the amount required for enterprise zone businesses, which is currently 1% of the tax incentives claimed. This fee would be deposited in the debt service fund established for the airport development zone. Because the Employee Tax Deduction, a tax incentive available in airport development zones, would decrease taxable income, Madison County could experience a decrease in revenue from COIT and CEDIT.

*Gary Airport Authority:* The bill allows the Gary Airport Authority Board to approve a lease, management agreement, or other contract to perform various functions or for various uses of its facilities for a period not to exceed 99 years. If the Board enters into such an agreement, to the extent permitted by federal law, the Board shall make distributions to the City of Gary in installments and on the dates determined by the fiscal body of the city. The City of Gary may use the funds for any legal or corporate purpose of the city, but it may not use the funds to reduce the city's maximum levy.

**State Agencies Affected:** All.

**Local Agencies Affected:** All.

**Information Sources:**

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